Virginia. General assembly, 1776. Committee of revisors.

REPORT

OF THE

COMMITTEE of REVISORS

APPOINTED BY THE

GENERAL ASSEMBLY

of *VIRGINIA*

IN MDCCLXXVI.

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LAW

VIRGINIA, TO WIT:

General Aſſembly of the commonwealth of Virginia *begun and held at the capitol in the city of* Williamſburg, *on* Monday *the ſeventh day of* October *in the yeor of our Lord* 1776, *and of the commonwealth the firſt.*

An act for the REVISION *of the* LAWS.

SECTION I. WHEREAS on the late change which hath of neceſſity been introduced into the form of government in this country, it is become alſo neceſſary to make correſponding changes in the laws heretofore in force, many of which are inapplicable to the powers of government as now organiſed, others are founded on principles heterogenious to the republican ſpirit, others which, long before ſuch change, had been oppreſſive to the people, could yet never be repealed while the regal power continued, and others, having taken their origin while our anceſtors remained in Britain, are not ſo well adapted to our preſent circumſtances of time and place, and it is alſo neceſſary to introduce certain other laws, which, though proved by the experience of other ſtates to be friendly to liberty and the rights of mankind, we have not heretofore been permitted to adopt; and whereas a work of ſuch magnitude, labor, and difficulty, may not be effected during the ſhort and buſy term of a ſeſſion of Aſſembly:

SECT. II. BE it therefore enacted by the General Aſſembly of the commonwealth of Virginia, and it is hereby enacted by the authority of the ſame, that a committee, to conſiſt of five perſons, ſhall be appointed by joint ballot of both Houſes (three of whom to be a quorum) who ſhall have full power and authority to reviſe, alter, amend, repeal, or introduce all or any of the ſaid laws, to form the ſame into bills, and report them to the next meeting of the General Aſſembly.

SECT. III. AND to prevent any delay which may happen in the proceedings of the ſaid committee, by the death or diſability of any member thereof, BE it farther enacted, that if either the ſaid members ſhould die, refuſe to act, or be diſabled by ſickneſs from proceeding in the ſaid work, it ſhall be lawful for the remaining members to appoint ſome other perſon in his ſtead and place, which perſon ſo appointed is hereby declared a member of the ſaid committee, in like manner as if he had originally been appointed by joint ballot of both Houſes.

SECT. IV. AND be it farther enacted, that the ſaid committee ſhall have power to meet at ſuch times and places as they ſhall think proper for the purpoſe of proceeding on the ſaid reviſal, to appoint a clerk for their eaſe and aſſiſtance in the work, and to ſend for any copies of records to the clerk in whoſe cuſtody they are, which ſuch clerk is hereby directed forthwith to tranſmit to them.

SECT. V. PROVIDED, that ſuch bills ſo to be prepared and reported by the Committee of Reviſors ſhall be of no force or authority until they ſhall have gone through their ſeveral readings in both Houſes of Aſſembly, and been paſſed by them in ſuch manner and form as if the ſame had been originally introduced without the direction of this act.

IN GENERAL ASSEMBLY, TUESDAY the 5th day of November, 1776.

RESOLVED, that Thomas Jefferſon, Edmund Pendleton, George Wythe, George Maſon, and Thomas Ludwell Lee, Eſquires, be appointed a committee to reviſe the laws of this commonwealth.

Teſte. JOHN TAZEWELL, C. H. D.
JOHN PENDLETON, Jun. C. S.

IN THE HOUSE OF DELEGATES, the 18th day of June, 1779.

THE Speaker laid before the Houſe a letter from Thomas Jefferſon, Eſq; Governor of the commonwealth, and George Wythe, Eſq; two of the Committee of Reviſors, in the words following:

WILLIAMSBURG, JUNE 18, 1779.

SIR,

THE committee appointed in purſuance of an act of General Aſſembly paſſed in 1776, intituled "An act for the reviſion of the laws," have according to the requiſitions of the ſaid act gone through that work, and prepared 126 bills, the titles of which are ſtated in the incloſed catalogue. Some of theſe bills have been preſented to the Houſe of Delegates in the courſe of the preſent ſeſſion two or three of them delivered to members of that Houſe at their requeſt to be preſented, the reſt are in the two bundles which accompany this; theſe we take the liberty through you of preſenting to the General Aſſembly.

In the courſe of this work we were unfortunately deprived of the aſſiſtance and abilities of two of our aſſociates appointed by the General Aſſembly, of the one by death, of the other by reſignation. As the plan of the work had been ſettled, and agreeable to that plan it was in a conſiderable degree carried into execution before that loſs, we did not exerciſe the powers given us by the act, of filling up the places by new appointment, being deſirous that the plan agreed on by members who were ſpecially appointed by the Aſſembly, might not be liable to alteration from others who might not equally poſſeſs their confidence, it has therefore been executed by the three remaining members, one of whom being prevented from putting his ſignature hereto, by the great diſtance of his reſidence from this city, has by letter authorized us to declare his concurrence in the report.

We have the honor to be with the utmoſt reſpect,

SIR,

Your moſt obedient

And moſt humble ſervants,

T. JEFFERSON,
G. WYTHE.

Hon. BENJAMIN HARRISON, Eſquire,
Speaker of the Houſe of Delegates.

ORDERED that the ſaid letter with its encloſures do lie on the table.

Extract from the journal.

JOHN BECKLEY, C. H. D.

LL S-12-42

A CATALOGUE *of* BILLS *prepared by the Committee for the reviſion of the laws.*

1. A Bill To arrange the counties into Senatorial diſtricts.
2. Concerning the election of members of General Aſſembly.
3. Empowering one of the Privy Council to officiate in certain caſes as Lieutenant Governor.
4. To empower the Governor with advice of the Privy Council to lay embargoes.
5. For regulating and diſciplining the militia.
6. Making proviſion againſt invaſions and inſurrections.
7. Giving certain powers to the Governor and Council for a limitted time.
8. Eſtabliſhing a board of war.
9. Eſtabliſhing a board of trade.
10. For the annual appointment of Delegates to Congreſs.
11. For eſtabliſhing a board of Auditors.
12. For appointing a Treaſurer.
13. For appointing Naval Officers.
14. For the appointment of Clerks to the Governor and Council.
15. For the enliſtment of ſoldiers, ſailors, and marines.
16. For apprehending deſerters and preventing the loſs of arms and other things delivered to ſoldiers.
17. Concerning ſeamen.
18. For ſupplying the public with lead.
19. For eſtabliſhing croſs poſts.
20. Directing the courſe of deſcents.
21. Concerning wills, the diſtribution of inteſtates eſtates, and the duty of Executors and Adminiſtrators.
22. For regulating conveyances.
23. Securing the rights derived from grants to aliens.
24. Concerning eſcheators.
25. To prevent frauds and perjuries.
26. Of mortmain.
27. Concerning dower and jointure of widows.
28. For preſervation of the eſtates of ideots and lunatics.
29. Providing that wrongful alienations of lands ſhall be void ſo far as they be wrongful.
30. For amending the act intituled an act for raiſing a ſupply of money for public exigencies.
31. For levying county rates.
32. For ſupport of the poor.
33. For aſcertaining and collecting certain officers fees.
34. Declaring bills of credit to be equal to gold and ſilver coin of the ſame denominations.
35. To prevent the circulation of private bank notes.
36. For withholding Britiſh property to indemnify citizens who may ſuffer by confiſcation and to prevent ſuccour to the enemy thereby.
37. To prevent oſſeſs by pirates and enemies on the high ſeas.
38. For preſervation of veſſels wrecked or in diſtreſs and of their crews and cargoes.
39. Concerning ſtrays.
40. For reſtitution of ſtolen goods.
41. For preventing infection of the horned cattle.
42. For improving the breed of horſes.
43. For preſerving the breed of deer.
44. For preventing frauds by the dealers in certain commodities.
45. For licenſing and regulating taverns.
46. Concerning public roads.
47. Eſtabliſhing public ferries.
48. Concerning mill dams and other obſtructions of water courſes.
49. For unlading ballaſt and burial of dead bodies from on board ſhips.
50. Concerning public ſtore-houſes.
51. Concerning ſlaves.
52. Concerning ſervants.
53. For apprehending and ſecuring runaways.
54. Declaring what perſons ſhall be deemed mulattoes.
55. Declaring who ſhall be deemed citizens of this commonwealth.
56. Concerning aliens.
57. Declaring that none ſhall be condemned without trial and that juſtice ſhall not be ſold or deferred.
58. Directing what priſoners ſhall be let to bail.
59. For granting writs of habeas corpus,
60. Concerning guardians, infants, maſters, and apprentices.
61. To enable guardians and committees to perform certain acts for the benefit of thoſe who are under their care.
62. For the reſtraint, maintenance and cure of perſons not ſound in mind.
63. For regiſtering births and deaths.
64. For proportioning crimes and puniſhments in caſes heretofore capital.
65. For puniſhing perſons guilty of certain forgeries.
66. Concerning treaſons, felonies and other offences committed out of the jurisdiction of this commonwealth.
67. Concerning truces, ſafe conducts, paſſports, licenſes, and letters of marque.
68. For the employment, government, and ſupport of malefactors condemned to labor for the commonwealth.
69. To encourage the apprehending of horſe-ſtealers.
70. For preſerving the privileges of Ambaſſadors.
71. For the ſuppreſſion and puniſhment of riots, routs, and unlawful aſſemblies.
72. Forbidding and puniſhing affrays.
73. Againſt conſpirators.
74. Againſt conveying or taking pretenſed titles.
75. To puniſh bribery and extortion.
76. Preſcribing the puniſhments of thoſe who ſell unwholeſome meat or drink.

77. A bill to prevent the ſpreading of the ſmall-pox.
78. For compelling veſſels and perſons coming and goods brought from infected places to perform quarentine.
79. For the more general diffuſion of knowledge.
80. For amending the conſtitution of the college of William and Mary and ſubſtituting more certain revenues for its ſupport.
81. For eſtabliſhing a public library.
82. For eſtabliſhing religious freedom.
83. For ſaving the property of the church heretofore by law eſtabliſhed.
84. For puniſhing diſturbers of religious worſhip and ſabbath breakers.
85. For appointing days of public faſting and thankſgiving.
86. Annulling marr ages prohibited by the levitical law and appointing the mode of ſolemnizing lawful marriage.
87. Againſt uſury.
88. To prevent gaming.
89. To prevent foreſtalling, regrating, and engroſſing and ſale by auction.
90. Conſtituting the High Court of Chancery.
91. Conſtituting the General Court.
92. Conſtituting the Court of Admiralty.
93. Conſtituting the Court of Appeals.
94. For conſtituting Courts Marſhall.
95. For conſtituting Juſtices of the Peace.
96. Concerning ſheriffs.
97. For licenſing council, attornies at law and proctors.
98. Preſcribing the oath of fidelity and the oaths of certain public officers.
99. To prevent the ſale of public offices.
100. Directing the method of proceeding upon impeachments.
101. For regulating proceedings in courts of equity.
102. For regulating proceedings in courts of common law.
103. Directing the method of proceeding againſt, and trying free perſons charged with certain crimes.
104. Directing the method of trying ſlaves charged with treaſon or felony.
105. For reforming the method of proceeding in writs of right.
106. Concerning partitions and joint rights.
107. For the ſpeedy determination of ſuits wherein foreigners are parties.
108. For ſpeedy recovery of money due from certain perſons to the public.
109. For recovering demands of ſmall value in a ſummary way.
110. Providing that actions popular, proſecuted by colluſion, ſhall be no bar to thoſe which be purſued with good faith.
111. For preventing vexatious and malicious proſecutions, and moderating amercements.
112. Providing a mean to help and ſpeed poor perſons in their ſuits.
113. Providing that an infant may ſue by his next friend.
114. Declaring when the death of perſons abſenting themſelves ſhall be preſumed.
115. Preſcribing a method of protetting inland bills of exchange and allowing aſſignees of obligations to bring actions thereupon in their own names.
116. For limitation of actions.
117. For granting attachments againſt the eſtates of debtors removing privately or abſconding.
118. Concerning inqueſts.
119. Permitting thoſe who will not take oaths to be otherwiſe qualified.
120. For regulating the commencement of the year and the computation of time.
121. Allowing a bill of exceptions to be ſealed.
122. For enforcing performance of awards made by rule of court.
123. Concerning executions.
124. Concerning rents and diſtreſſes.
125. Providing remedy and puniſhment in caſes of forcible entries and detainers.
126. Repealing certain acts of Parliament and of General Aſſembly.

IN THE HOUSE OF DELEGATES, THE 1ſt OF JUNE 1784.

WHEREAS, in purſuance of an act, entitled, "An act for the reviſions of the laws," a reviſal of the laws of this commonwealth has been executed with great labor and care, and reported to the General Aſſembly by the committee appointed for the ſaid purpoſe; and whereas it is highly expedient, that the ſaid reviſal ſhould as early as poſſible, undergo the conſideration and if approved receive the ſanction of the Legiſlature. And whereas it is neceſſary for that purpoſe, and for the purpoſe of affording to the citizens at large an opportunity of examining and conſidering a work which propoſes ſuch various and material changes in our legal code, that the ſame ſhould be printed, and copies thereof diffuſed throughout the community.

RESOLVED that the clerk of this Houſe be empowered and directed to make out a complete ſet of the bills contained in the ſaid reviſal, as originally reported, and after the ſame ſhall be inſpected and approved by the members of the committee of reviſal or any two of them, to cauſe five hundred copies thereof to be forthwith printed: That of the copies when printed, one ſhall be delivered to each member of the General Aſſembly, of the Executive, of the General Court, of the Courts of Chancery and Admiralty, to the Attorney General, and to each of the Delegates repreſenting this ſtate in Congreſs, and that the reſidue of the ſaid copies be diſtributed throughout the ſeveral counties, by the Executive, in ſuch manner as they ſhall judge moſt conducive to the end propoſed.

Teſte JOHN BECKLEY, C. H. D.

IN THE HOUSE OF SENATORS, THE 1ſt OF JUNE 1784.

AGREED to.

WILLIAM DREW, C. S.

N. B. George Maſon, Eſq; one the Committee of Reviſors declined to act, Thomas Ludwell Lee, Eſq; another of the ſame Committee died without having taken any part in the buſineſs, and the three remaining Gentlemen, to wit: Thomas Jefferſon, Edmund Pendleton, and George Wythe, Eſquires, performed the preſent work.

CHAPTER I.

A BILL to arrange the counties into Senatorial diſtricts.

SECTION I. BE it enacted by the General Aſſembly that the diſtricts, for which Senators are to be choſen to ſerve in General Aſſembly, ſhall be thoſe which are herein after deſcribed, that is to ſay, the counties of Accomack and Northampton, one diſtrict; the counties of Princeſs Ann, Norfolk, and Nanſemond, one other diſtrict; the counties of Iſle-of-wight, Surry, and Prince George, one other diſtrict; the counties of Dinwiddie, Southampton, and Suſſex, one other diſtrict; the counties of Brunſwick, Lunenburg, and Mecklenburg, one other diſtrict; the counties of Charlotte, Halifax, and Prince Edward, one other diſtrict; the counties of Cheſterfield, Amelia, Cumberland, and Powhatan, one other diſtrict; the counties of Buckingham, Albemarle, Amherſt, and Fluvanna, one other diſtrict; the counties of Pittſylvania, Bedford, and Henry, one other diſtrict; the counties of Botetourt, Montgomery, Waſhington, and Kentucky, one other diſtrict; the counties of Elizabeth City, Warwick, and York, one other diſtrict; the counties of Charles City, James City, and New-Kent, one other diſtrict; the counties of Henrico, Goochland, and Louiſa, one other diſtrict; the counties of Hanover, and Caroline, one other diſtrict; the counties of Ohio, Yohogania, Monongalia, and Shenando, one other diſtrict; the counties of Glouceſter, and Middleſex, one other diſtrict; the counties of Eſſex King William, and King and Queen, one other diſtrict; the counties of Lancaſter, Richmond, and Northumberland, one other diſtrict; the counties of Weſtmoreland, Stafford, and King George, one other diſtrict; the counties of Spotſylvania, Orange, and Culpeper, one other diſtrict; the counties of Prince William, and Fairfax, one other diſtrict; the counties of Loudoun, and Fauquier, one other diſtrict; the counties of Frederick, Berkeley, and Hampſhire, one other diſtrict; and the counties of Auguſta, Rockingham, Greenbrier, and Rockbridge, one other diſtrict.

CHAP. II.

A BILL concerning election of members of General Aſſembly

SECTION I. BE it enacted by the General Aſſembly, that the Delegates for the ſeveral counties, and the City of Williamſburg and Borough of Norfolk, and the ſix Senators for one of the four claſſes of diſtricts, in the room of thoſe who will annually be diſplaced, ſhall be choſen, in the manner hereafter directed, on the firſt Monday of September in every year, and ſhall meet together, and with the remaining Senators, on the firſt Monday of October then next following in General Aſſembly, at the place the laſt preceeding General Aſſembly ſhall have ſat in or adjourned to, unleſs ſuch place be in poſſeſſion of a public enemy, or infected with the plague or ſmall-pox, in which caſe they ſhall meet at ſuch other place as the Governor with advice of the Council ſhall appoint and notify by proclamation.

SECT. II EVERY male citizen of this commonwealth, aged twenty one years, other than ſuch as have refuſed to give aſſurance of fidelity to the commonwealth, being poſſeſſed, or whoſe tenant for years, at will or at ſufferance is poſſeſſed of twenty five acres of land, with a houſe, the ſuperficial content of the foundation whereof is twelve feet ſquare, or equal to that quantity, and a plantation thereon, or fifty acres of unimproved land, or a lot or part of a lot of land in a city or town eſtabliſhed by act of General Aſſembly with a houſe thereon, of the like ſuperficial content or quantity, having in ſuch land an eſtate of freehold at the leaſt, and, unleſs the title ſhall have come to him by deſcent, devise, marriage or marriage ſettlement, having been ſo poſſeſſed ſix months, and no other perſon, ſhall be qualified to vote for Delegates to ſerve in General Aſſembly for the county, city or borough reſpectively in which the land lieth. If the fifty acres of land, being one entire parcel, lie in ſeveral counties, the holder ſhall vote in that county wherein the greater part of the land lieth only, and if the twenty five acres of land, being one entire parcel, be in ſeveral counties, the holder ſhall vote in that county wherein the houſe ſtandeth only. In right of land holden by parceners, joint-tenants or tenants in common but one vote ſhall be given by all the holders capable of voting, who ſhall be preſent and agree to vote for the ſame candidate or candidates, unleſs the quantity of land, in caſe partition had been made thereof, be ſufficient to entitle every holder preſent to vote ſeparately, or unleſs ſome one or more of the holders may lawfully vote in right of another eſtate or eſtates in the ſame county, in which caſe the others may vote if holding ſolely they might have voted.

SECT. III. EVERY perſon having ſuch a freehold in the City of Williamſburg or Borough of Norfolk as will qualify him to vote for Delegates to repreſent the county, and alſo every freeman aged twenty one years, being a citizen of the commonwealth, and not having refuſed to give aſſurance of fidelity, who ſhall be a houſe-keeper, and ſhall have reſided for ſix months in the ſaid city or borough, and ſhall be poſſeſſed of a viſible eſtate of the value of fifty pounds at the leaſt, or ſhall actually have ſerved as an apprentice to ſome trade within the ſaid city or borough for the term of five years, and ſhall have obtained a certificate of ſuch ſervice from the Court of Huſtings under the common ſeal of the city or borough, and no other, ſhall be qualified to vote for a Delegate to repreſent the city or borough reſpectively in General Aſſembly Every perſon qualified as aforeſaid to vote for Delegates, not being an Alderman or Aſſeſſor of the public taxes nor otherwiſe diſqualified, ſhall be capable of being elected a Delegate for the county, city, or borough, or Senator for the diſtrict in which he reſides. No perſon who ſhall have ſerved as a member of the Legiſlature for ſeven years in the whole ſhall be afterwards compellable to ſerve therein. Any elector qualified according to this act failing to attend any annual election of Delegates, or of a Senator, and, if a poll be taken, to give, or offer to give his vote ſhall pay a double portion of all ſuch levies and taxes as ſhall be aſſeſſed and levied in his county the enſuing year, unleſs being required by the Aſſeſſors of his hundred, who ought in ſuch caſe to call upon him to make his excuſe, he ſhall ſatisfy them; or they ſhall otherwiſe know that his failure was occaſioned by grievous ſickneſs, infirmity, or neceſſary abſence in diſcharge of a public duty elſewhere; and for enabling them to diſcover who did and who did not vote, the clerk of every county court ſhall deliver to the Aldermen of his county, before their meeting to appoint Aſſeſſors, a copy of the poll books taken at the preceding election of Delegates, and the Aldermen ſhall deliver ſo much thereof to the Aſſeſſors of the ſeveral hundreds as may be requiſite for their information. Every elector going to, abiding at, and returning from an election, ſhall be privileged from arreſts one day for every twenty miles he ſhall neceſſarily travel, excluſive of the day of election; and any proceſs againſt ſuch elector executed during ſuch privilege ſhall be void. Upon the election of a Senator, and alſo of a Delegate or Delegates when the election of ſuch Delegate or Delegates cannot be determined by view, the ſheriff, or in his abſence, the under ſheriff of the county, or the Mayor of the city or borough, ſhall in preſence of the candidates, or their agents, cauſe the poll to be taken in the court-houſe, or if that be in a town infected with any contagious diſeaſe, or be in danger of an attack from a public enemy, at ſome other place according to theſe directions: He ſhall

appoint ſuch and ſo many writers as he ſhall think fit, who ſhall reſpectively take an oath, to be adminiſtered by him, or make ſolemn affirmation that they will take the poll faithfully and impartially. He ſhall deliver a poll book to each writer, who by ruling lines thereon, having made as many columns as there ſhall be candidates, ſhall enter the name of each candidate in a diſtinct column at the head thereof, and under his name in the ſame column the name of every elector who ſhall vote for that candidate; and after the names of all the electors who will give their votes (proclamation having been made three times at the door of the court houſe by the officer requiring thoſe who had not been polled to come in and give their votes) ſhall have been thus entered he ſhall conclude the poll, and declare the candidates for whom the greateſt number of votes ſhall appear to have been given to be elected; or if the greateſt number of votes for ſeveral candidates ſhall be equal with one another may declare which of the candidates he will elect. If the numbers of votes for ſeveral perſons to be a Senator be equal, and the votes of the returning officers be equal alſo, it ſhall be decided by a lot taken by the ſaid returning officers at their meeting, which ſhall be the ſeventh day after the day of election at ſuch place as ſhall be appointed by the laſt Senator of the diſtrict then ſurviving. No elector ſhall be admitted to poll a ſecond time at one and the ſame election, although at the firſt time he ſhall have given but a ſingle vote. If the electors who appear be ſo numerous that they cannot all be polled before ſunſetting; or if by rain or riſe of water courſes many of the electors may have been hindered from attending, the ſheriff or under ſheriff may, by requeſt of one or more of the candidates or their agents, adjourn the proceeding on the poll until the next day; and ſo from day to day through the week if the ſame cauſe continue, giving public notice thereof by proclamation at the door of the court-houſe, and ſhall on the laſt day of election conclude the poll according to the directions aforeſaid. On complaint to either Houſe of Aſſembly of an undue election or return of any member to their houſe, ſuch houſe ſhall forthwith appoint ſome day for trying the ſame as ſhortly as ſhall be conſiſtent with fair enquiry; but not within leſs than fourteen days after ſuch complaint lodged; whereof notice ſhall be given by the Speaker to the party againſt whom the complaint is if he be abſent; which day of trial may be lengthened from time to time on good cauſe ſhewn to the houſe and notice to the abſent party. On the day appointed for the trial, the petitioners, their counſel and agents ſhall be called to the bar of the houſe, and the door being then locked, the names of all the members preſent ſhall be put into ſix boxes or glaſſes, and the Speaker ſhall draw one name out of each by regular rotation, to be noted by the clerk as they are drawn, until the number drawn ſhall be forty nine if the complaint be before the Houſe of Delegates, or nine if before the Senate. If, among thoſe drawn, there be the name of any member who is a party to the ſaid complaint, or who ſhall have voted in the election, he ſhall be ſet aſide; and if any other member whoſe name is drawn ſhall ſhew good cauſe againſt his being put on the trial, he ſhall be excuſed, and in their ſtead others ſhall be drawn to make up the number before ſpecified: it ſhall be lawful for the petitioners to name one other member preſent, and the ſitting member another, to be of the committee, who may for the like cauſes be ſet aſide or excuſed, and the party permitted to name another ſo often as it ſhall happen, or on their failure to nominate, the number ſhall be made up by drawing; which being done the door ſhall be opened, liſts of the names drawn ſhall then be given to the parties, their agents, or counſel, who, with the clerk of the houſe, ſhall forthwith withdraw and ſtrike off one alternately (the petitioners firſt beginning) until the number be reduced to thirteen if the matter be before the Houſe of Delegates, or five if before the Senate; which thirteen or five, as the caſe ſhall be, together with the two members named by the parties, ſhall be a ſelect committee to try the ſaid complaint, and ſhall forthwith take the following oath to be adminiſtered, in preſence of the houſe, by the Speaker. "You ſhall ſwear that well and truly, according to the beſt of your ſkill and judgment and the evidence which ſhall be given, you will try the complaint which has been lodged by againſt that you will nothing ſay or do therein, or leave unſaid or undone, for envy, hatred, malice, love, fear or reward, but you ſhall try and determine the ſame truly and according to law. So help you God." The ſaid committee being ſworn and not yet departed the houſe ſhall fix the time and place of their meeting, which time ſhall be within twenty four hours. They ſhall at their firſt meeting chooſe their chairmain from among the members whoſe names were drawn by lot, and in caſe of an equality of votes, the vote of the member firſt drawn ſhall be deciſive. The ſaid committee ſhall have power to ſend for perſons, papers and records, to adminiſter oaths by their chairman, examine witneſſes and to determine finally on the ſaid complaint; and ſuch determination ſhall report to the houſe to be by them carried into execution; they ſhall not adjourn themſelves without leave of the houſe for any longer time than from day to day, nor do buſineſs but when all their members are attending; if they ſhall fail to meet within one hour after the time appointed, they ſhall adjourn and report the ſame to the houſe with the cauſe thereof, and the names of the abſentees, who ſhall be ſubject to the cenſure or puniſhment of the houſe, unleſs they ſhew cauſe of unavoidable neceſſity for their failure; if there ſhall fail to be a committee for three ſeveral appointments ſucceſſively, they ſhall be thereby diſſolved, their paſt proceedings void, and another committee ſhall be choſen in the ſame way, and to proceed in the like manner as is herein before directed for the original committee, and ſo as often as the like caſe ſhall happen. If any perſon ſworn before the ſaid committee ſhall give, or withhold, any evidence under ſuch circumſtances as would have conſtituted the ſame to be perjury, if done in preſence of a court of record, the ſame ſhall be deemed perjury.

SECT. IV. IF upon any ſuch trial it ſhall appear that equal numbers of qualified electors ſhall have voted for the petitioner and the ſitting member; and the officer who conducted the election ſhall ſwear or ſolemnly affirm that if ſuch equality had appeared at the election he would have declared the petitioner elected, ſuch petitioner ſhall be deemed duly elected; and his name, inſtead of the name of the ſitting member which ſhall be eraſed, ſhall be inſerted in the certificate or return. No elector ſhall be polled before he ſhall have declared, if required to do ſo by any candidate or his agent, in what right he offers to vote and ſhall have taken an oath, which the officer conducting the election ſhall adminiſter, or made a ſolemn affirmation in this form: "I do ſwear [or do ſolemnly affirm] that I do in my conſcience believe myſelf to be duly qualified to vote for Delegates to ſerve in General Aſſembly for the county of according to the act of General Aſſembly, intituled, an act " of which oath or affirmation a note ſhall be made in the poll book oppoſite and referring to the name of the perſon ſwearing or affirming.

SECT. V. The making ſuch oath or affimation falſely ſhall be perjury. The names of electors offering to be polled, but refuſing to make ſuch oath or affirmation, ſhall be entered on the poll books in ſeparate liſts with the names of the candidates for whom they voted, and ſhall be added to the poll if upon a ſcrutiny the votes be juſtified. The officer who ſhall conduct the election ſhall within twenty days afterwards deliver to the clerk of his county court or court of his city or borough the poll books to be by him preſerved and recorded, and ſhall in the meantime ſuffer any candidate or elector, at his own expence, to take a copy thereof.

SECT. VI. The ſheriff or under ſheriff ſhall certify the election of Delegates in this form or to this effect: "Be it known to all to whom theſe preſents ſhall come, that I ſheriff [or deputy of ſheriff] of the county of in my full county, held at the court-houſe thereof [or at] on the day of in the year of our Lord by the electors

" of my ſaid county, qualified according to law, cauſed to be choſen two Delegates for my ſaid county, " namely, and to repreſent the ſame in General Aſſembly. Given under my hand " and ſeal the day and year aforeſaid."

SECT. VII. THE Mayor of a city or borough entituled to particular repreſentation ſhall certify the election of a Delegate in this form or to this effect: " Be it known to all to whom theſe preſents ſhall come, that I " Mayor of the city [or borough] of at the court-houſe of [or at] in the ſaid city [or " borough] on the day of in the year of our Lord by the electors of the ſaid city [or " borough] qualified according to law cauſed to be choſen a Delegate for the ſaid city [or borough] namely, " to repreſent the ſame in General Aſſembly. Given under my hand and ſeal the day and year aforeſaid."

SECT. VIII. THE ſheriffs or under ſheriffs of the ſeveral counties of a diſtrict ſhall certify the election of a Senator in this form or to this effect: " Be it known to all to whom theſe preſents ſhall come, that we " ſheriff [or deputy of ſheriff] of the county of , ſheriff [or deputy of " ſheriff] of the county of and ſheriff [or deputy of ſheriff] of the county of " in our full counties, held at the court-houſes thereof [or at] reſpectively, on the " day of in the year of our Lord by the electors of our ſaid reſpective counties, qualified accord- " ing to law, cauſed to be choſen a Senator for the diſtrict compoſed of the ſaid counties, namely, " to repreſent the ſame in General Aſſembly. Given under our hands and ſeals the day and year aforeſaid." The officers directed to make ſuch certificates of elections as aforeſaid, ſhall cauſe them to be delivered, thoſe of Delegates, to the clerk of the Houſe of Delegates, and thoſe of Senators to the clerk of the Senate, one day at leaſt before the ſucceeding ſeſſion of General Aſſembly. For election of a Delegate or Senator, when a vacancy ſhall happen, a writ or writs ſhall be iſſued by the Speaker of that Houſe whereof he was a member, but if the vacancy be occaſioned by acceptance of an office, the writ or writs ſhall not be iſſued without the ſpecial order of the Houſe; and the officer to whom ſuch writ ſhall be directed, ſo ſoon after the receipt thereof as he may be able, ſhall diſpatch meſſengers to give the electors notice thereof, as well as of the time and place of election, and ſhall cauſe the election to be made in the manner herein before preſcribed, and ſhall have the ſame power of adjourning the proceeding upon the poll, as in caſe of a general election. The return of ſuch writ for electing a Delegate or Delegates ſhall be in this form or to this effect: Upon the writ ſhall be endorſed theſe or the like words: " The execution of this writ appears in a ſchedule hereunto annexed;" and on another paper annexed to the writ ſhall be written, if the writ be for election of a Delegate for a county, theſe or the like words: " By " virtue of this writ to me directed, in my full county held at the court-houſe thereof [or at] on the " day of in the year of our Lord by the electors of my ſaid county qualified according to law I " cauſed to be choſen a Delegate [or two delegates] for my ſaid county, namely, to repreſent the ſame in " General Aſſembly. Given under my hand and ſeal the day and year aforeſaid;" and if the writ be for the election of a Delegate for a city or borough, theſe or the like words: " By virtue of this writ to me directed at " the court-houſe of the city of [or borough of] [or at in the borough of] on the " day of in the year of our Lord by the electors of the ſaid city [or borough] qualified " according to law, I cauſed to be choſen a Delegate for the ſaid city [or borough] namely to repreſent " the ſame in General Aſſembly. Given under my hand and ſeal the day and year aforeſaid:" And the return of the writs for electing a Senator ſhall be in this form or to this effect: Upon each writ ſhall be endorſed theſe or the like words: " The execution of this writ appears in a ſchedule hereunto annexed;" and on another paper connecting the ſeveral writs together ſhall be written theſe or the like words: " By virtue of theſe writs to us " directed, in our full counties held at the court-houſes thereof, reſpectively [or at] on the day of " in the year of our Lord by the electors of our ſaid reſpective counties, qualified according to " law, we cauſed to be choſen a Senator for the diſtrict compoſed of our ſaid counties, namely to repreſent " the ſame in General Aſſembly. Given under our hands and ſeals the day and year aforeſaid."

SECT. IX. AND the officers conducting the elections ſhall make their ſaid returns to the General Aſſembly, if it be ſitting immediately, or if it be not ſitting, one day at leaſt before the time to which the writ ſhall be returnable. A ſheriff, under ſheriff, or Mayor, refuſing to take the poll when he ſhall be required by a candidate or elector, or taking it in other manner than is herein before preſcribed, or making a falſe certificate or return of the election of a member or members to ſerve in the General Aſſembly, or neglecting to cauſe the certificate or return of ſuch election to be made to ſuch clerk, and at or before ſuch time as is herein before directed, ſhall forfeit and pay one hundred pounds; and neglecting to deliver the poll books to the clerk of the court, to whom, and before the expiration of the time within which they are herein before directed to be delivered, or refuſing to ſuffer any candidate or elector, at his own expence, to take a copy of the poll books, ſhall forfeit and pay ; which penalties may be recovered with coſts in actions of debt, by any perſon who will ſue for the ſame; one half to his own uſe and the other half to the uſe of the commonwealth. A perſon hereafter to be elected to ſerve in General Aſſembly who ſhall directly or indirectly give or agree to give to any elector or pretended elector, money, meat, drink, or other reward, in order to be elected, or for having been elected, for ſuch or any other county, city, or borough, ſhall be expelled and diſabled to be re-elected during the term of three years.

SECT. X. THE privilege of members of the General Aſſembly ſhall continue during every ſeſſion, and one day before and after for every twenty miles they muſt neceſſarily travel to and from home, and in the meantime proceſs in which they are parties ſhall be ſuſpended, without abatement or diſcontinuance: If any perſon taken in execution be delivered by privilege of either Houſe of General Aſſembly, ſo ſoon as ſuch privilege ceaſeth, the plaintiff, his executors, or adminiſtrators may ſue out a new execution againſt him.

SECT. XI. IF a ſufficient number of the members of General Aſſembly, or of either Houſe thereof, to adjourn from day to day, ſhall not meet at any time when they ought, the Governor, by proclamation with advice of the Council, may prorogue the General Aſſembly, or adjourn the deficient Houſe, from day to day, until a ſufficient number ſhall convene, and their acts and proceedings afterwards ſhall be as valid as if there had been no ſuch intermiſſion. But a Delegate or Senator ſhall looſe all the wages he would otherwiſe have been entitled to, if he ſhall depart from the General Aſſembly before it be adjourned without licence from the Speaker and other members of the Houſe whereof he is a member firſt entered on the journal; yet any member of either Houſe taken ſo ſick during his attendance in General Aſſembly, or in his journey thither, as that he ſhall be unable to come to or ſit in the Houſe, ſhall receive wages for every day of the ſeſſion he ſhall be ſo diſabled, in the ſame manner as if he had ſat in the Houſe. If on the day appointed for the meeting of any General Aſſembly, or at any other time during the ſeſſion, a ſufficient number of the members thereof to proceed to buſineſs do not attend for that purpoſe, every abſent Delegate or Senator ſhall, beſides loſing his wage during abſence, forfeit and pay to the uſe of the commonwealth ; ſuch forfeiture to be recovered by

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profecution to be inſtituted in the General Court by order of ſuch Houſe; and on the trial of ſuch proſecution no excuſe for non attendance, other than thoſe before mentioned, ſhall be admitted by the jury; and if it be alledged that the defendant did attend ſuch houſe, on any of the days during which they could not do buſineſs for want of members, the proof of ſuch attendance ſhall reſt on him. The General Aſſembly may during a ſeſſion, or at the end thereof, adjourn to any other place than that where they ſhall then be ſitting. Every act of the General Aſſembly hereafter to be made, ſhall commence and be in force from the paſſing thereof, unleſs in the act itſelf another day for the commencement thereof be particularly mentioned; and in the former caſe the day of paſſing thereof ſhall be noted next after the title.

CHAP. III.

A BILL empowering one of the Privy Council to officiate in certain caſes as Lieutenant Governor.

SECTION I. BE it enacted by the General Aſſembly, that if the Governor and Preſident of the Privy Council ſhall die, or otherwiſe become unable to perform his duty, in the receſs of the General Aſſembly, the Privy Councillor whoſe name ſtands next in the liſt of their appointments ſhall officiate as Lieutenant Governor, until the vacancy be ſupplied, or the diſability ceaſe. And, in the abſence of the Governor, ſuch intended abſence having been previouſly notified to them by him and entered on their journals, or in the like abſence of the Preſident and upon the like notification, if any buſineſs, to be tranſacted at the Council Board, neceſſarily require diſpatch before he can attend it, the Council may proceed without him, and in either caſe the act ſhall be as valid as if he had been preſent.

CHAP. IV.

A BILL empowering the Governor, with advice of the Privy Council, to lay embargoes.

SECTION I. BE it enacted by the General Aſſembly, that it ſhall be lawful for the Governor, with advice of the Privy Council, whenever, before the next ſeſſion of General Aſſembly, they ſhall judge it to be for the good of the commonwealth, by his proclamation, publiſhed in the Virginia Gazette, to prohibit, during ſuch time, to be therein limitted, as they ſhall think the exigency will probably continue; the exportation, by land or water, of wheat, and Indian corn, and the flour or meal thereof, and rice, barley, rye, oats, peaſe, or other pulſe, potatoes, beef, pork, and bacon, or any, or either, of them, except ſuch as, by his leave, and ſpecial order, with the advice aforeſaid, ſhall be allowed to be exported, for ſupplying the army or navy of the United American States, or their allies, or for relieving any of the ſaid ſtates, repreſented, by the Executive powers thereof, to be diſtreſſed for want of proviſions. If any ſuch prohibited commodity be loaded in a veſſel, more than what is neceſſary for ſuſtenance of the crew thereof in the voyage, or in a cart, waggon, or other vehicle, for exportation, after the owner or maſter of the veſſel, or the owner or driver of the vehicle, ſhall have notice of the embargo, or, having been loaded before ſuch notice, ſhall not, in convenient time afterwards, be unloaded, and ſo remain, until the embargo ſhall expire, or be revoked, ſuch veſſel, with its rigging, apparel, and whole cargo; or ſuch vehicle, with its team and whole load, or the value thereof, ſhall be forfeited; one half, to the uſe of the commonwealth, and the other, to the uſe of him who will ſue, and may be recovered, by information; the former, in the Court of Admiralty, and the latter in the court of common law. During ſuch embargo, the chief commanding officer of any fort, or ſhip of the commonwealth, is hereby empowered, and any other perſon, by warrant of a juſtice, to be granted when affidavit ſhall be made that there is cauſe to ſuſpect an illicit exportation to be intended, may with a ſheriff, or conſtable, be empowered, to ſearch for ſuch prohibited articles, and ſeize them, with the veſſel or vehicle wherein they ſhall be found, and the reſidue of the loading thereof; and no action ſhall be maintainable for damages, occaſioned by ſuch ſeizure of commodities, permitted by order of the Governor to be exported, unleſs ſuch order ſhall have been produced and ſhewn to the perſon making the ſeizure, at that time, or before. The maſter of every veſſel, before it be cleared out, during the continuance of an embargo, ſhall enter into bond, with ſufficient ſurety, in the penalty of five thouſand pounds, payable to the Governor, with condition, that none of the commodities prohibited ſhall be carried in the ſaid veſſel, more than ſuch as are ſufficient to ſuſtain the crew thereof in the voyage; or that the commodities on board, if they ſhall have been loaded by ſuch order of the Governor as aforeſaid, ſhall be carried to the place deſtined by the ſaid order, and there delivered; but ſuch bond ſhall be void, if no action thereupon be commenced within one year after a breach of the condition ſhall happen.

CHAP. V.

A BILL for regulating and diſciplining the militia.

SECTION I. FOR forming the citizens of this commonwealth into a militia and diſciplining the ſame for defence thereof, be it enacted by the General Aſſembly of the commonwealth of Virginia, that all free male perſons, hired ſervants and apprentices, between the ages of 16 and 50 years (except the Governor and members of the Council of State, members of the American Congreſs, Judges of the Superior Courts, Speakers of the two Houſes, the Treaſurer, Attorney General, Commiſſioners of the navy, Auditors, Clerks of the Council of ſtate, of the Houſes of Aſſembly and of the Navy Board, all Miniſters of the Goſpel, licenſed to preach according to the rules of their ſect, who ſhall have previouſly taken, before the court of their county, an oath of fidelity to the commonweal h, the Preſidents, Profeſſors, and ſtudents of the College of William and Mary, and Academy of Hampden-Sidney, poſt-maſters, keepers of the public jail and public hoſpital, millers, except in the counties of Accomack and Northampton, perſons concerned in iron or lead works, inſpectors of tobacco, quakers and menonists, and military officers or ſoldiers, whether continental or colonial, all of whom are exempted from the obligations of this act, ſhall, by the commanding officer of the county in which they reſide, be inrolled and formed into

companies of not leſs than 32, nor more than 68 rank and file; and theſe companies ſhall again be formed into battalions of not more than than 1000 nor leſs than 500 men, if there be ſo many in the county; the free mulattoes in the ſaid companies or battalions ſhall be employed as drummers, fifers, or pioneers.

SECT. II. EACH company ſhall be commanded by a Captain, two Lieutenants and an Enſign; each battalion by a Colonel, Lieutenant Colonel and Major, who ſhall take precedence and command of each other according to rank and ſeniority, and the whole by a County Lieutenant, ſhall be reſident within their county, and, before they enter on the execution of their office, ſhall, in preſence of the court of the ſame county, take the following oath: "I do ſwear that I will be faithful and true to the commonwealth of Virginia, of "which I profeſs myſelf to be a citizen, and that I will faithfully and juſtly execute the office of a "in the militia of the county of according to the beſt of my ſkill and judgment: So help me God."

SECT. III. THERE ſhall be a private muſter of every company once in every month, except the months of December and January, at ſuch convenient time and place as the Captain, or next commanding officer, ſhall appoint; and a general muſter in each county, at the court houſe of the ſame, on a convenient day in the months of April and October in every year, to be appointed by the County Lieutenant or other commanding officer, Every officer and ſoldier ſhall appear at his reſpective muſterfield, by 11 o'clock in the forenoon, armed or accoutred as follows; the County Lieutenant, Colonels, Lieutenant Colonels, and Majors, with a ſword; every Captain and Lieutenant with a firelock and bayonet, a cartouch box, a ſword, and three charges of powder and ball; every enſign with a ſword; every ſerjeant with a ſword and halbard; every private with a rifle and tomahawk, or common firelock and bayonet, with a pouch and horn, or a cartouch or cartridge box, and with three charges of powder and ball; and moreover each of the ſaid officers and ſoldiers ſhall conſtantly keep one pound of powder and four pounds of ball to be produced whenever called for by his commanding officer. If any ſoldier be certified to the court-martial to be ſo poor that he cannot purchaſe ſuch arms, the ſaid court ſhall cauſe them to be procured at the expence of the public, to be reimburſed out of the fines on the delinquents of the county; which arms ſhall be delivered to ſuch poor perſon, to be uſed at muſters, but ſhall continue the property of the county; and if any ſoldier ſhall ſell ſuch arms, the ſeller and purchaſer ſhall each of them forfeit the ſum of ſix pounds; and on the death of ſuch poor ſoldier, or his removal out of the county, ſuch arms ſhall be delivered to his Captain, who ſhall make report thereof to the next court-martial, and deliver the ſame to ſuch other poor ſoldier as they ſhall order.

SECT. IV. EACH Captain ſhall at every muſter, either by himſelf or ſome ſworn officer, note down the delinquencies occurring in his company, and make return thereof to the next court-martial: But where any perſon is diſabled by ſickneſs from attending, the Captain, or commanding officer, being ſatisfied thereof by teſtimony on oath, which he is hereby enabled to adminiſter, on the ſpot, ſhall not note down ſuch non-attendance.

SECT V. EVERY officer and ſoldier ſhall be allowed ſix months, after his appointment, or enrollment, to provide ſuch arms or accoutrements as he has not at the time.

SECT. VI. ALL arms and ammunition, of the militia, ſhall be exempted from executions and diſtreſſes at all times; and their perſons from arreſt, in civil caſes, while going to, continuing at, or returning from any muſter or Court-Martial.

SECT. VII. EACH Captain ſhall appoint a drummer and fifer to his company, and alſo ſhall provide a drum, fife, and colors, and halbards for the ſame, at the public expence, to be reimburſed out of the fines on the delinquents of his county.

SECT. VIII. AN adjutant ſhall be appointed, by the court-martial of each county, to attend all muſters general and private, and inſtruct the officers and ſoldiers in military duty: He ſhall continue in office till the next court-martial, and have an allowance by the ſaid court, not exceeding the rate of fifty pounds a year, to be paid out of the fines, or, if they be not ſufficient, the deficiency to be ſupplied by the Juſtices of the ſame county, in their next county levy, on certificate from the court-martial of ſuch deficiency.

SECT. IX. EVERY Captain or next commanding officer, ſhall, at every general muſter, make up and report to his County Lieutenant a ſtate of the company laſt aſſigned to him, noting therein ſuch as are dead, removed or exempted, and adding the names of ſuch perſons not already enrolled as are within the extent of his company and ought to be enrolled; and alſo of all quakers and menoniſts, within the ſame extent, not yet divided into tenths; and on failure to make ſuch report ſhall forfeit five pounds.

SECT. X. FOR failing to qualify himſelf, to a commiſſion, at the firſt or ſecond court, which ſhall be held after accepting the ſame, every officer ſhall forfeit five pounds; for failing to enroll the militia or to appoint a general muſter, the County Lieutenant, or if he be abſent on neceſſary buſineſs, the next commanding officer ſhall forfeit one hundred pounds; for not appointing a private muſter, the Captain, or next commanding officer, ſhall pay forty ſhillings; for failing to appear at any general muſter, properly armed, or at any court-martial, every County-Lieutenant and field officer ſhall pay ten pounds; for failing to appear at any court-martial, every Captain ſhall pay forty ſhillings; for failing to appear at any general or private muſter, properly armed or accoutred, every Captain ſhall forfeit forty ſhillings, every lieutenant or enſign, twenty ſhillings, and every ſoldier five ſhillings; for not returning to the next court-martial a true liſt of the delinquencies in his company, every Captain, or commanding officer for the time, ſhall forfeit ten pounds; which penalties, where incurred by infants, ſhall be paid by the parent or guardian; and, where incurred by ſervants, ſhall be paid by the maſter, who, if ſuch delinquency were without his influence or direction, may retain ſo much out of the hire of ſuch ſervant.

SECT. XI. IF any officer, when on duty, ſhall, miſbehave, he may be put under arreſt, for the day, by his commanding officer, and the next court-martial, if required, ſhall enquire into ſuch miſbehavior and either cenſure the ſame or make report thereof to the Governor and Council, who, if the cauſe be ſufficient, ſhall thereupon degrade ſuch officer. If any ſoldier, at any muſter, ſhall refuſe to obey the command of his officer, or ſhall behave himſelf refactorily or mutinouſly, or miſbehave himſelf at a court-martial, the commanding officer, may, in like manner, put him under arreſt for the day, or may cauſe him to be bound neck and heels for any time not exceeding five minutes. If any by-ſtander interrupt, moleſt or inſult any officer or ſoldier, while on duty, at any general or private muſter, or miſbehave before any court-martial, the commanding officer, or court-martial, may put him under arreſt for the day.

SECT. XII. THE County-Lieutenant, Field-Officers, and Captains, or the greater part of them, whereof the County Lieutenant, or a Field Officer, ſhall be one, ſhall hold a court-martial at the court-houſe of their county, on the day following their general muſter; having firſt taken the following oath: "I do ſwear "that as a member of this court-martial I will do equal right and juſtice to all men according to law; So help

"me God:" Which oath ſhall be adminiſtered, to the preſiding officer, by the next in command: and then by ſuch preſiding officer to the other members. The ſaid court may adjourn from day to day, and ſhall have power to exempt all perſons enrolled, whom, from age or inability, they may adjudge incapable of ſervice; and ſhall alſo enquire, by teſtimony on oath, which the clerk is hereby enabled to adminiſter, into all delinquencies againſt this act, which ſhall have happened ſince the laſt court-martial; and, where no reaſonable excuſe for the ſame is made appear to them, ſhall give judgment for the penalties thereto annexed. But if it ſhall appear to the next court-martial, that any perſon fined for any ſuch delinquency was unable to attend the court, by which he was fined, and had reaſonable excuſe for the delinquency, ſuch fine ſhall be remitted.

SECT. XIII. THE ſaid court ſhall have power to appoint a clerk to enter and preſerve their proceedings, to whom the preſident ſhall adminiſter an oath truly and faithfully to execute the duties of his office; and may alſo appoint a provoſt martial to attend on the ſaid court for the preſervation of order and good behavior; and either by themſelves, or any of their members, by their order, may appoint one or more perſons to collect all fines, with an adequate allowance out of the ſame for their trouble: who ſhall have power to diſtrain for the ſame, and failing, or refuſing, without reaſonable cauſe, to make ſuch collection, after having undertaken it, ſhall be held accountable for the ſame, each in his proper perſon and of his proper eſtate, to be recovered before any court of record, by action to be brought in the name of the court martial: And if after collecting the ſame he ſhall refuſe to pay them, to the order of the ſaid court-martial, he ſhall be ſubject to pay the double thereof on motion in any court of record and ten days previous notice given him of ſuch motion; and the ſaid court-martial ſhall alſo appoint ſome perſon, not being a member of the ſaid court, to be their burſer, who ſhall receive, from the collector, all fines by him collected, and all ſums of money recovered from him; and who before he enters on the execution of his office, ſhall give bond with ſufficient ſecurity, payable to the members of the ſaid court and their ſucceſſors, for the due payment of all ſuch monies which ſhall come to his hands. And if any burſer ſhall fail, or delay, to account with the ſaid court, or to apply the money, in his hands, as by them directed, after deducting at the rate of five per centum for his own trouble, on motion made in any court of record, by any perſon authoriſed to receive money from him; or by any other, by order of the ſaid court-martial, judgment ſhall be given, and execution awarded, for the ſums ſo unpaid or unaccounted for, together with the coſts of the motion; the defendants having firſt had ten days notice of ſuch motion.

SECT. XIV. ALL fines impoſed by this act ſhall be appropriated in the firſt place to the payment of the ſalaries and allowances to the adjutant, clerk, provoſt martial, collectors and burſer; then to reimburſing the public treaſury for any arms purchaſed for the poor ſoldiers, of ſuch county, and for drums, fifes, and colors, bought for the ſeveral companies; and if any ſurplus remain it ſhall be laid out by the court-martial in eſtabliſhing and furniſhing, for the uſe of their county, a magazine of ſmall arms, field-pieces, ammunition, and ſuch other military ſtores as may be uſeful in caſe of invaſion or inſurrection.

SECT. XV. ALL other acts and ordinances, ſo far as they relate to regulating and diſciplining the militia of the ſeveral counties, are hereby repealed.

SECT. XVI. THIS act ſhall be read, to every company of the militia, by order of the Captain or next commanding officer thereof, at the firſt muſter next ſucceeding every general muſter, on penalty of five pounds for every omiſſion.

CHAP. VI.

A BILL making proviſion againſt invaſions and inſurrections.

SECTION I. FOR making proviſion againſt invaſions and inſurrections, and laying the burthen thereof equally on all: BE it enacted by the General Aſſembly, that the diviſion of the militia of each county into ten parts, made under the laws heretofore in force, ſhall be kept up in the following manner: The commanding officer of every county, within one month after every general muſter, ſhall enroll, under ſome Captain, ſuch perſons, not before enrolled, as ought to make a part of the militia, who, together with thoſe before enrolled, and not yet formed into tenths, ſhall, by ſuch Captain, at his firſt muſter after receiving the ſame, be divided into ten equal parts, as nearly as may be, each part to be diſtinguiſhed by fair and equal lot, by numbers from one to ten, and when ſo diſtinguiſhed to be added to and made part of the diviſion of the militia of ſuch county already diſtinguiſhed by the ſame number. And where any perſon ſubject to ſuch allottment, ſhall not attend, or ſhall refuſe to draw for himſelf, the Captain ſhall cauſe his lot to be drawn for him, by ſome other in preſence of the company; and as ſoon as ſuch diviſion ſhall be made, the Captain ſhall make return thereof to the commanding officer of the county. For failing to make ſuch diviſion, or return the ſame, the Captain ſhall forfeit ten pounds to be aſſeſſed by the court-martial of his county. When any officer of the militia ſhall receive notice of any invaſion or inſurrection within his own county, he ſhall immediately give intelligence thereof to the commanding officer of the county, and if the urgency of the caſe requires it, he ſhall forthwith raiſe the militia under his ſpecial command, and proceed to oppoſe the enemy or inſurgents. The commanding officer of the county, on receiving notice thereof, ſhall immediately, if the caſe will admit delay, or the danger be greater than the force of his own militia may be able to encounter, communicate the ſame to the Governor by expreſs, for which purpoſe he may impreſs boats, men, and horſes, and may alſo notify it to any militia officer of the adjacent counties, to be by him forwarded to his commanding officer; and in the meantime, if it be urgent, ſhall raiſe ſuch part of his own militia as the caſe ſhall require and admit. The commanding officer of any adjacent county, receiving the notice ſo forwarded, ſhall immediately raiſe ſuch part of his militia as the circumſtances of the caſe may require, and order them to the aſſiſtance of ſuch adjacent county; but any officer thinking the caſe of too ſmall conſequence to require theſe proceedings, may call a council of war, to conſiſt of a majority of his Field-Officers and Captains, or of a Field-Officer and of five Captains at the leaſt, and take their advice whether any, and what force, ſhall be raiſed or ſent, or whether they may wait the Governor's orders. The Governor, on receiving ſuch intelligence, may, with advice of the Council of State, cauſe to be embodied and marched, to oppoſe ſuch invaſion or inſurrection, ſuch numbers of the militia as may be needful, and from ſuch counties as will ſuit the exigency of the caſe, and, if the corps conſiſts of three or more battalions may appoint a general officer or officers, as the caſe may require, to take command thereof. The ſeveral diviſions of the militia of any county ſhall be called into duty by regular rotation from the firſt to the tenth; and every perſon failing to attend when called on, or to ſend an able bodied man in his room, ſhall, unleſs there be good excuſe, be conſidered as a deſerter, and ſuffer accordingly. Any able bodied volunteers who will enter into the ſervice ſhall be accepted inſtead of ſo many of the diviſions of the militia called for, or of the particular perſon in whoſe room they may offer to ſerve; but if the invaſion or inſurrection be ſo near and

preſſing as not to allow the delay of calling the diviſion or diviſions next in turn, the commanding officer may call on ſuch part of the militia as ſhall be moſt convenient to continue in duty till ſuch diviſion or diviſions can come to ſupply their places. The ſoldiers of ſuch militia, if not well armed and provided with ammunition, ſhall be furniſhed with the arms and ammunition of the county, and any deficiency in theſe may be ſupplied from the public magazines, or if the caſe admit not that delay, by impreſſing arms and ammunition of private property; which ammunition, ſo far as not uſed, and arms, ſhall be duly returned, as ſoon as they may be ſpared: And any perſon embezzling any ſuch public or private arms, or not delivering them up when required by his commanding officer, ſhall, on his warrant, be committed to priſon without bail or mainprize, there to remain till he deliver or make full ſatisfaction for the ſame, unleſs he be ſooner diſcharged by the court of his county. The commanding officer ſhall appoint ſuch officers of the militia as he ſhall think moſt proper to command the men called out by diviſions, in the following proportions: If there be called into duty not more than twenty, nor leſs than fifteen, he ſhall appoint one enſign and one ſerjeant to command them. If not more than thirty, or under twenty men, a Lieutenant, an enſign, and two ſerjeants. If not more than fifty men, a Captain-Lieutenant, enſign, and three ſerjeants. If ſixty eight men, a Captain, two Lieutenants, an enſign, and four ſerjeants. And if not more than one hundred and fifty, nor leſs than one hundred, a Major ſhall command. If more than one hundred and fifty, and not exceeding two hundred and fifty, a Lieutenant-Colonel ſhall command, and have under him a Major, with the proper number of Captains and other officers. A Colonel to command any number of men not exceeding five hundred, nor under two hundred and fifty. A County Lieutenant to command any number of men above five hundred, and not exceeding a battallion. A diſtinct liſt of the names and numbers of officers and ſoldiers ſent on duty, and of all perſons impreſſed, with the time they ſerved, atteſted, on oath, by the officer commanding ſuch party, ſhall be certified by the commanding officer of the county to the Auditors of Public Accounts to be by them examined and certified to the Treaſurer, for payment of what may be juſtly due. Any officer reſigning his commiſſion on being called into duty by the Governor, or his commanding officer, ſhall be ſent on the ſame duty as a private, and ſhall moreover, ſuffer puniſhment as for diſobedience of command. The commanding officer of the corps marching to oppoſe any invaſion or inſurrection, or any commiſſioned officer, by warrant under the hand of ſuch commander, may, for the neceſſary uſe of ſuch corps or for the tranſportation of them acroſs waters, or of their baggage by land or water, impreſs proviſions, veſſels with their furniture, hands, waggons, carts, horſes, oxen, utenſils for intrenching, ſmiths, wheel-wrights, carpenters, or other artificers, and arms in the caſe before directed. Such neceſſaries, or the uſe of them by the day, ſhall be previouſly appraiſed by two perſons choſen, the one by ſuch officer, and the other by the perſon intereſted, or both by the officer, if the perſon intereſted ſhall refuſe to name one, or cannot readily be called upon and duly ſworn by the ſaid officer, who is hereby empowered to adminiſter the oath. Such officer ſhall give a receipt or a certificate of every particular impreſſed, of its appraiſed value, and of the purpoſe for which it was impreſſed. And if any article impreſſed ſhall be loſt, or receive damage, while in public ſervice, ſuch loſs and damage ſhall be enquired of, and eſtimated by two men choſen and ſworn in the ſame manner. The ſaid certificates ſhall be tranſmitted to the Auditors, to be by them certified and paid in manner herein before directed. All perſons drawn into actual ſervice, or impreſſed by virtue of this act, ſhall be exempted in their perſons and property from civil proceſs, and all proceedings againſt them in civil ſuits ſhall be ſtayed during their continuance in ſervice When any corps or detachment of militia ſhall be on duty with any corps or detachment of regulars belonging to the continent or this commonwealth, or both of them, the continental officer ſhall take command of officers of the commonwealth of the ſame rank, and theſe again of militia officers of the ſame rank, and all militia officers of the ſame rank ſhall take command according to ſeniority, and if their commiſſions be of equal date, then their rank ſhall be decided by lot; a County-Lieutenant, when acting in concert with regulars taking rank as a Colonel. The commanding officer of each of the counties of Elizabeth City, Princeſs Anne, Norfolk, Northampton, and Accomack, with permiſſion from the Governor, may appoint any number of men not exceeding ſix, in each of the former counties, and in the two latter not more than ten men, to keep a conſtant looking out to ſeaward, by night and by day, who diſcovering any veſſels appearing to belong to an enemy, or to purpoſe landing or hoſtility, ſhall immediately give notice thereof to ſome militia officer of the county. And the Lieutenant, or next commanding officer of the ſeveral counties on the weſtern frontier, with the like permiſſion, ſhall be empowered to appoint any number of proper perſons not exceeding ten, in any one county, to act as ſcouts for diſcovering the approach of the Indians, or any other enemy on the frontiers; who, on ſuch diſcovery, ſhall immediately give notice thereof to ſome militia officer of the county, whereon ſuch courſe ſhall be purſued as is before directed in caſe of an invaſion or inſurrection. The pay of all officers and ſoldiers of the militia, from the time they leave their homes by order of their commanding officer till they return to them again, and of all look outs or ſcouts, ſhall be the ſame as ſhall have been allowed by the laſt regulations of General Aſſembly to regulars of the ſame rank or degree. Meſſengers ſhall be allowed, by the Auditors of Public Accounts, according to the nature of their ſervice. Any militia officer receiving notice of an invaſion or inſurrection, or of the approach of any veſſel with hoſtile purpoſe, and not forwarding the ſame to his commanding officer, ſhall forfeit, if a Field-Officer, one hundred pounds; if a Captain or ſubaltern, fifty pounds; and any commanding officer of a county receiving ſuch notice, and not raiſing part of his militia, nor taking the advice of his council of war, two hundred pounds. Such forfeitures to be recovered, with coſts, by action of debt, in the name of the other members of the ſaid court-martial, or the ſurvivors of them before any court of record, and appropriated to the ſame uſe as the fines impoſed by the court-martial of his county. Any officer or ſoldier guilty of mutiny, deſertion, or diſobedience of command, abſence from duty or quarters neglect of guard, or cowardice, ſhall be puniſhed at the diſcretion of a court-martial, by degrading, caſhiering, drumming out of the army, fine not exceeding two months pay, impriſonment not exceeding one month. Such court-martial, which the commanding officer is hereby empowered to order, ſhall be conſtituted of militia officers only, of the rank of Captains or higher, and ſhall conſiſt of ſeven members at the leaſt, whereof one ſhall be a County-Lieutenant or Field-Officer: Provided that if two or more companies, without a Field-Officer, ſhould be called out to duty, the ſenior officer, may appoint a court-martial, to conſiſt of one Captain and three or more commiſſioned officers, whoſe ſentence, not extending to amercement or impriſonment, being confirmed by the commanding officer, not being a member of the court, ſhall be put in execution; each of whom ſhall take the following oath: "I do ſwear, that I will well and truly try, and impartially determine the cauſe of "the priſoner now to be tried, according to the act of Aſſembly, for providing againſt invaſions and "inſurrections. So help me God." Which oath ſhall be adminiſtered to the preſiding officer by the next in command, and then by ſuch preſiding officer to the other members. The ſaid court ſhall alſo appoint a clerk to enter and preſerve their proceedings, to whom the preſident ſhall adminiſter an oath, truly and faithfully to execute the duties of his office. And ſuch clerk ſhall be paid ſuch compenſation for his ſervice as ſhall be judged reaſonable by the court-martial, out of the fines impoſed by this act; the fines to be collected by the ſheriff, as in the militia law, except ſuch as can be retained out of the pay of the delinquent. All perſons

called to give evidence ſhall take the uſual oath of evidence, to be adminiſtered by the clerk of the court. If in any caſe the offender be not arreſted before the corps of militia on duty be diſcharged, or cannot be tried for want of members ſufficient to make a court, he ſhall be ſubject to be tried after by the court martial of his county. The Governor with the advice of the Council of State, may, and he is hereby authoriſed and deſired, to appoint one or more fit and able perſons to act as quarter-maſters to the militia drawn into actual ſervice, whoſe duty it ſhall be to provide, in due time, all things neceſſary for their accommodation. And ſuch quarter-maſters ſhall have power, and they are hereby ſtrictly enjoined, to inſpect and examine all proviſions dealt out by any comiſſary or contractor to ſuch militia, and make report to the Governor, from time to time, of the quality thereof. And the ſaid quarter-maſters ſhall, for their ſervices, receive ſuch allowance as to the Governor and Council may appear reaſonable. The commanding officer of any detachment of militia drawn out into actual ſervice ſhall, if neceſſary, appoint a commiſſary, or contractor, to procure proviſions for the ſaid detachment. Such commiſſary, upon complaint to a court-martial, to be compoſed of the officers of the corps, may, by judgement of ſuch court-martial, be removed for miſconduct. Every commiſſary or contractor appointed by virtue of this act ſhall obtain a certificate of his ſervice from the commanding officer of the detachment for which he ſerved, on producing which to the Governor and Council he ſhall be entitled to ſuch reward as they think fit. This act ſhall be read to every company of the militia by order of the Captain, or next commanding officer, twice in every year, on penalty of five pounds for every omiſſion.

CHAP. VII.

A BILL giving certain powers to the Governor and Council for a limitted time.

SECTION I. WHEREAS the preſent war between America and Great-Britain was undertaken for defence of the common rights of the American States, and it is therefore juſt that each of them, when in danger, ſhould be aided by the joint exertions of all; and as on any invaſion of this commonwealth in particular, we ſhould hope for and expect neceſſary aids of militia from our neighboring ſiſter ſtates, ſo it is incumbent on us to yeild the ſame aſſiſtance to them under the like circumſtances; and the laws heretofore empowering the Governor and Council to ſend aids of militia to ſuch ſtates will expire at the end of this preſent ſeſſion of Aſſembly.

SECT. II. BE it therefore enacted by the General Aſſembly that on the invaſion, or reaſonable apprehenſion of an invaſion of any ſiſter ſtate, and application from Congreſs, or from the Legiſlative or Executive powers of ſuch ſtate for aids of militia, it ſhall be lawful for the Governor, with the advice of the Council of State, to order to their aſſiſtance ſuch corps of the militia, from any of the counties of this commonwealth, as the exigence of the caſe may require or admit, having regard, in ſuch orders, to the convenience and vicinity of ſuch counties to the place invaded, their internal ſecurity and the imminence of the danger; and moreover to appoint ſuch General, Field, and Staff Officers as may be requiſite to command, attend and provide for the ſame, to have them furniſhed with neceſſaries for travelling and camp uſes, and ſuch arms, ammunition, and accoutrements, as may be called for, if the ſame can be procured and ſpared from this commonwealth. And to anſwer the expences hereof in the firſt inſtance, the Governor with the advice of Council is empowered to draw for any ſums of money neceſſary to carry theſe purpoſes into effect, on the Treaſurer of this commonwealth, who ſhall pay the ſaid draughts and keep a ſeparate and diſtinct account thereof, in order that the ſame may be reimburſed to the commonwealth.

SECT. III. SUCH militia while on duty ſhall be ſubject to the continental rules and articles of diſcipline and government; ſave only that all courts-martial, whether general or regimental, which ſhall be holden on any of them, ſhall conſiſt of their own officers only.

SECT. IV. THIS act ſhall be in force till the end of the next ſeſſion of General Aſſembly only, and no longer.

CHAP. VIII.

A BILL eſtabliſhing a Board of War.

SECTION I. BE it enacted by the General Aſſembly that a Board of War ſhall be conſtituted to conſiſt of five perſons, to be choſen by joint ballot of both Houſes of Aſſembly, at the firſt ſeſſion of every Aſſembly, and to continue in office until the next choice ſhall be made. But any member may be removed within that time by joint vote of both Houſes, and thereupon, as alſo on the death, reſignation or refuſal to act, of any member, they ſhall proceed to chuſe another to act in his ſtead and during his term, and if either of theſe events happen during the receſs of Aſſembly, the Governor and Council may appoint ſome perſon to act in the ſaid office until the end of the next ſeſſion of Aſſembly: Any three of the members may proceed to buſineſs, and he who is firſt in the nomination ſhall preſide.

SECT. II. THE duty of the ſaid board ſhall be to ſuperintend and manage, ſubject to the direction and controul of the Governor with advice of the Council, all matters and things within the department of war, and all perſons holding offices or performing duties within that department: All their reſolutions, proceedings and orders, before they are carried into execution, ſhall be ſigned by the Governor: The ſaid board ſhall depute by rotation, unleſs they can otherwiſe agree, ſome one of their members to viſit and perſonally examine and report, once in every two months at the leaſt, the condition of the military ſtores and proviſions in the ſeveral magazines.

SECT. III. THEY ſhall ſit at ſuch places, and in ſuch apartments, as the Governor with advice of the Council ſhall direct: And if at any time they ſhall be ſeparated and occaſion for their meeting ſhall ariſe, the Governor ſhall have power to call them together: They ſhall have authority from time to time to appoint a Commiſſioner of the Navy and alſo their own clerk; which clerk ſhall take an oath to keep ſecret all ſuch matters as they ſhall direct to be kept ſecret; the ſaid oath may be adminiſtered by any member of the board.

CHAP. IX.

A BILL eſtabliſhing a Board of Trade.

SECTION I. BE it enacted by the General Aſſembly that a Board of Trade ſhall be conſtituted to conſiſt of three perſons, not exerciſing commerce on their private account, to be choſen by joint ballot of both Houſes of Aſſembly, at the firſt ſeſſion of every Aſſembly, and to continue in office until the next choice ſhall be made: But any member may be removed within that time by joint vote of both Houſes, and thereupon, as alſo on the death, reſignation, or refuſal to act of any member, they ſhall proceed to chuſe another in his ſtead; or if ſuch death, reſignation, or refuſal happen during the receſs of Aſſembly, the Governor and Council may appoint ſome perſon to act in the ſaid office until the end of the next ſeſſion of Aſſembly: Any two of the ſaid members may proceed to buſineſs.

SECT. II. THE duty of the ſaid board ſhall be to ſee to the procuring, by importation or otherwiſe, all military ſtores, clothing, accoutrements, utenſils, materials and neceſſaries which ſhall be required by the Governor with advice of the Council, for the public uſe, or for the uſe of the officers, ſoldiers, ſailors and marines raiſed under the laws of this commonwealth; taking care to ſend for ſuch additional quantities as may provide againſt total diſappointments happening by capture or otherwiſe: To make payment for the ſame in money, or by remittance of commodities or bills of exchange to be purchaſed by them for that purpoſe, or of ſpecie or bullion; to have them ſtored and ſafely kept until called for by the Governor and Council or Board of War: To ſuperintend and direct all perſons and things employed in or about the ſaid buſineſs: To license proper pilots for the ports within this commonwealth, without which license no perſon ſhall act as pilot; to deprive them for miſbehavior and to regulate their fees from time to time: They ſhall deliver to every ſuch pilot on his application an atteſted liſt of the fees which he may take and notify to him from time to time all alterations made therein; which liſt and notifications he ſhall conſtantly carry with him when in the execution of his office, and produce it if required to the perſon making payment of his fees on pain of deprivation of his license: If he ſhall demand any greater fees, he ſhall in like manner be deprived of his license; and if when required by the maſter of any veſſel belonging to this commonwealth or any citizen thereof or to any other ſtate in amity with this commonwealth or any of its ſubjects or citizens, he ſhall refuſe to conduct ſuch veſſel to any port within his license, he ſhall be deprived of his license and forfeit his veſſel: All the proceedings of the ſaid board before they are carried into execution, ſhall be ſubmitted to the Governor and Council for their approbation, amendment or negative.

SECT. III. THE Governor with advice of Council ſhall notify from time to time to the Board of Auditors, the ſums of money which may be neceſſary for the purpoſes before mentioned, who ſhall thereupon give their warrant or warrants, on the Treaſurer, for the advance of ſuch monies to be regularly debited and accounted for in due time.

SECT. IV. THE ſaid board ſhall ſit at ſuch place and in ſuch apartments as the Governor with advice of Council ſhall direct: And if at any time they ſhall be ſeparated and occaſion for their meeting ſhall ariſe, the Governor ſhall have power to call them together: They ſhall from time to time appoint their own clerk, who ſhall take an oath to keep ſecret all ſuch matters as they ſhall direct to be kept ſecret; which oath may be adminiſtered by any member of the board.

CHAP. X.

A BILL for the annual appointment of Delegates to Congreſs, and of a member for the committee of the ſtates.

SECTION I. BE it enacted by the General Aſſembly, that at the firſt ſeſſion of every General Aſſembly there ſhall be choſen by joint ballot of both Houſes, ſeven perſons to act as Delegates for this commonwealth in General Congreſs, from the firſt Monday in November next enſuing, the ſaid election for the term of one year.

SECT. II. FOUR of the ſaid Delegates at the leaſt, ſhall be always at Congreſs during its ſeſſions, the majority of thoſe preſent ſhall give the vote of this commonwealth, provided there be preſent three at the leaſt; otherwiſe they ſhall give no vote. If they ſhall not by agreement among themſelves, to be ſtated in writing, otherwiſe ſettle the portions of the year during which each member ſhall attend, ſo as to keep up a conſtant attendance of four at the leaſt, then they ſhall ſerve as follows, to wit:

SECT. III. THE firſt member in the nomination ſhall ſerve during the months of November, December, January, February, June, July and Auguſt.

SECT. IV. THE ſecond, during the months of January, February, March, April, May, September and October.

SECT. V. THE third, during the months of November, December, March, April, May, September and October.

SECT. VI. THE fourth, during the months of November, December, January, February, June, July and Auguſt.

SECT. VII. THE fifth, during the months of February, March, April, July, Auguſt, September and October.

SECT. VIII. THE ſixth, during the months of November, December, January, May, June, July and Auguſt.

SECT. IX. AND the ſeventh, during the months of March, April, May, June, September and October.

SECT. X. NO member ſhall be capable of being a Delegate for more than three years in any term of ſix years.

SECT. XI. SO ſoon as it ſhall be decided on the ballot, who are to be Delegates for the enſuing year, the two Houſes, ſhall proceed to chuſe, in like manner, by joint ballot, one of the ſaid Delegates, to be a member of the committee of the ſtates for this commonwealth during the ſame year, who ſhall reſide during the receſs of Congreſs wherever they ſhall have appointed the ſaid committee to ſit.

SECT. XII. ANY of the ſaid Delegates, or the ſaid member of the committee of the ſtates, ſhall be ſubject to be removed at any time within the year, by the joint vote of both Houſes, and thereon, or in caſe of the death, reſignation, or refuſal to act, of any ſuch Delegate, or member, they ſhall proceed to chuſe another, to ſerve in his ſtead, and during his term.

SECT. XIII. THE reaſonable expences for ſuſtenance and travelling, of the ſaid Delegates and member of the committee of ſtates, and of their wives, and children accompanying them, ſhall be paid or advanced by the Treaſurer, at whatever place Congreſs or the ſaid committee ſhall be ſitting, the account thereof to be made up of general heads only, to be proved to the Auditors, by the oath of the member, or by other vouchers at his election; or any ſuch member preferring the ſame, may be entitled to receive, in like manner, and in lieu thereof, from the Treaſurer, the ſum of dollars for every day he ſhall be at Congreſs, or the ſaid committee, and half a dollar for every mile travelling to, or returning from the ſame with his ferriages.

SECT XIV. IF any perſon holding any office under the laws of this commonwealth, Legiſlative, Executive, or Judiciary, be appointed a Delegate to Congreſs, or member of the committee of the ſtates, ſuch office ſhall not thereby be vacated.

SECT. XV. THE Delegates to Congreſs to be choſen during the preſent ſeſſion of Aſſembly in lieu of thoſe who have reſigned, or ſhall reſign, together with thoſe remaining in office, ſhall be continued until the firſt Monday in November next, and ſhall be ſubject to the ſame rules of voting, and entitled to the ſame allowances as are before ſtated, in caſe of the members to be annually choſen.

CHAP. XI.

A BILL eſtabliſhing a Board of Auditors.

SECTION I. BE it enacted by the General Aſſembly that there ſhall be a ſtanding Board of Auditors for Public Accounts, to conſiſt of three perſons to be choſen from time to time, as vacancies ſhall happen, by joint ballot of both Houſes of Aſſembly, and to continue in office until removed by the joint vote of both the ſaid Houſes; and where any perſon ſo appointed ſhall refuſe to act, reſign, or die, during the receſs of Aſſembly, it ſhall be lawful for the Governor with advice of the Council of ſtate, to appoint ſome other fit and able perſon to act in his ſtead, until the next meeting of the General Aſſembly. The Auditors ſo appointed ſhall not be capable of acting until they ſhall have taken the oath of fidelity to the commonwealth, and alſo an oath impartially and honeſtly to execute the duties of their office; which oaths, during the ſeſſions of the High Court of Chancery, ſhall be taken before the ſaid court, and during their vacation ſhall be taken before ſome judge thereof, and by him ſhall be certified to his next ſucceeding court and entered of record: Any two of the ſaid Auditors ſo qualified, ſhall have power to proceed to buſineſs. The Auditors now in office, by virtue of former appointments, ſhall continue to act and be conſidered to all future intents and purpoſes as if they had been appointed by virtue of this act. The ſaid Board of Auditors are authoriſed and required to ſtate and keep an exact account of all articles of debit or credit hereafter to ariſe between this commonwealth and the United States of America, or any of them, or any other ſtate, to raiſe and keep accounts with all officers of civil government who are intitled to receive from the public treaſury ſalaries or wages fixed by law: To enquire into all legal expenditures for the army, navy, or militia of this commonwealth, and on requiſition from the Governor, with the advice of Council, to give their warrant on the Treaſurer for the advance of monies for ſuch purpoſes, debiting therewith the perſon to whom it is confided, and calling him in due time to render account of the application thereof: To examine all demands for the hire of horſes, waggons, or other things employed, or impreſſed by authority of law, for the public ſervice, or for the worth thereof, or injury done thereto, where the thing impreſſed has been conſumed, loſt, deſtroyed, or damaged in ſuch ſervice: To make juſt allowances to expreſſes employed by the Governor and Council, the Boards of War or Trade, or our Delegates in Congreſs, or ſent on the public ſervice to the Governor and Council, or to any Indian nation, the Governor and Council certifying there was good reaſon for ſending ſuch expreſs, or to ſcouts, and to look outs, or any others doing ſervices to the public, for which they are intitled in law to receive payment, and no perſon particularly authoriſed to aſcertain the quantum of ſuch payment: To allow annual penſions to officers, ſoldiers, ſailors, and marines, of the army or navy raiſed by any act of General Aſſembly and diſabled in the ſervice, and to the widows of thoſe ſlain or dying therein, as alſo ſums in groſs for their immediate relief, proportioning the ſame with impartiality and diſcretion to the nature of every caſe; ſuch ſums in groſs however, to be given but once to any one perſon, and not to exceed one year's pay, and ſuch annual penſion not to exceed full pay: To enter in account all draughts on the Treaſurer for money by the Governor and Council for the public ſervice: To certify ſuch entry to the Treaſurer for payment, and to audit in due time the expenditure thereof: To give warrants on the Treaſurer for the payment or advance of wages to our Delegates in Congreſs, debiting each Delegate reſpectively with the warrant given in his name, and requiring account thereof to be rendered within three months after the expiration of his appointment: To audit all accounts for wages due to the members of the General Aſſembly for attendance therein, or for their travelling allowances, ſuch attendance and allowances being previouſly entered with the clerk of the Houſe, of which ſuch member is, in ſeparate books to be kept for that purpoſe and to lie during the ſeſſion on the table of the Houſe, and being certified by the ſaid clerk, to be ſo entered; and to audit accounts for ſalaries or wages to the officers and attendants of the two Houſes: To ſettle the expences of ſending for the members of either Houſe by ſpecial meſſengers: Of providing robes for the Speakers and clerks of both Houſes, maces, lights, fuel, blank books, parchment, paper, and other articles neceſſary for the uſe of either Houſe, or of the Governor and Council, the Boards of War or Trade, Treaſurer, Regiſter, or the Superior Courts of Juſtice, while on duty in the capitol or in their offices: To audit all accounts for building or repairing houſes or other articles of public property, ſuch buildings or repairs being authoriſed by act of Aſſembly, or the previous vote of the two Houſes of Aſſembly: To examine all claims for the ſupport of priſoners where the public is chargeable with ſuch ſupport, or for the removal of any ſuch to the priſon of the General Court, or for the guard of criminals, or for jurors or witneſſes attending their trials, or witneſſes for the commonwealth attending a court of juſtice, or judical officer in any other caſe; or for ſlaves executed by judgment of common law for any crime, or legally put to death under proceſs of outlawry: To call for annually, and to examine the accounts of expenditures for the public trade, the public hoſpital, and for all works undertaken and carried on, at the public expence, by authority from the Legiſlature, and to enter the ſame in ſeparate accounts: To enquire into all demands for bounties, or premiums payable by law, out of the public treaſury, for the encouragement of particular manufactures: Of bringing to juſtice public offenders: Of deſtroying noxious animals, or of any other matter: To examine and enter in account of all

other demands, for money on the Treaſurer, made under authority of any law heretofore paſſed, or hereafter to be paſſed: To ſettle the accounts of all public debtors, and of all collectors of any revenue or tax levied by act of General Aſſembly and payable to the Treaſurer; or of any monies due to the public: To call upon ſuch debtors or collectors to render account at proper times, and on their failure ſo to do, to inſtruct the Attorney General to inſtitute proceedings at law for compelling them to juſtice, and though it ſhould appear on trial that the defendant oweth no balance to the public, yet his having failed to render account to the Auditors and to take from them his quietus, ſhall ſubject him to the payment of all coſts incurred by ſuch proceedings, as well to himſelf as to the commonwealth: To require information on oath from any perſon, party or privy, of matters relative to any account under their examination and material for their information: To adminiſter ſuch oath where the party is attending, and where abſent to take out a commiſſion from the High Court of Chancery directed to any Juſtice of the Peace, to take his examination on interrogatories to be ſtated by them; whereon any ſuch ſettlement a balance ſhall appear due to the public, to certify the ſame under their own hands to the Treaſurer and hold the party charged therewith till he ſhall produce to them the Treaſurer's receipt for the ſame, on which they ſhall give him a quietus, debit the Treaſurer therewith, and certify ſuch debits to the next committee of Aſſembly appointed to ſettle the Treaſurer's accounts; and where ſuch balance is due from the public to certify it in like manner to the Treaſurer, and debit the party with ſuch certificate: To enter in proper accounts all loan office certificates hereafter to be given, and endorſe on ſuch certificates that they are entered in the ſaid Auditors office, without which endorſement no ſuch certificate ſhall be valid: To require counſel of the Attorney General on all doubts in matters of law relative to the duties of their office: To ſtate and keep all the accounts coming under their examination, ſpecially againſt each perſon, ſo as to ſhew the amount of all warrants and certificates given on the Treaſurer, for what ſervice or article of public expence they were given, or where they have been, for money advanced, to whom it was advanced, and for what purpoſe, and to preſerve the vouchers in due order: And alſo to raiſe general accounts ſhewing the amount of the expenditures for the army, the navy, the militia, the public trade, the public works and manufactories of every kind, of penſions, claims, and all other expences of government, each ſtated in a collective view, under its ſeparate and proper head, and to lay before the Aſſembly annually the ſaid general accounts together with an account of all balances due to and from the public as nearly as they ſhall be able.

SECT. II. AND it is farther enacted, that it ſhall not be lawful for the Treaſurer to pay or receive any money on account of the public but on warrant or certificate from the Board of Auditors, unleſs in caſes where any future act of Aſſembly ſhall in expreſs words, and not by inference or implication only, declare that in that particular caſe it is to be underſtood as the intention, that the claim ſpecified by ſuch act ſhall not be audited in the regular courſe, ſave only that the ſalaries of the ſaid Auditors, together with the accounts for the expences of their office for fuel, blank books, paper, preſſes for the preſervation of their books and papers, and other implements neceſſary for the uſe of their office, ſhall be examined and certified for payment to the Treaſurer by the Governor and Council. The ſaid Auditors ſhall be allowed a clerk of accounts and an aſſiſtant clerk, to be appointed by themſelves from time to time at their will, who, before entering on the exerciſe of their office, ſhall take the like oath and in like manner as is before directed for the ſaid Auditors to take. Where the Auditors acting according to their diſcretion and judgment ſhall diſallow or abate any article of demand againſt the commonwealth, and any perſon ſhall think himſelf agrieved thereby, he ſhall be at liberty to petition the High Court of Chancery or the General Court, according to the nature of his caſe, for redreſs, and ſuch court ſhall proceed to do right thereon, and a like petition ſhall be allowed in all other caſes to any other perſon who is intitled to demand againſt the commonwealth any right in law or equity.

CHAP. XII.

A BILL concerning the Public Treaſurer.

SECTION I. BE it enacted by the General Aſſembly, that the public Treaſurer may continue in office, without re-election, until the end of the ſeſſion of General Aſſembly next after one year from the time of his appointment ſhall have expired. On his firſt election, before he ſhall have power to act, he ſhall give bond to the Governor, with ſureties, to be approved by the Council of State, in the penalty of four hundred thouſand pounds, payable to the commonwealth, with condition, that he will faithfully account for all monies and other things, which ſhall come to his hands in virtue of his office, and perform all other duties thereof; and ſhall take an oath to the ſame purpoſe, and give aſſurance of fidelity to the commonwealth, before ſome court of record, or before a judge or juſtice thereof, the adminiſtration of which oaths, or the certificate thereof, ſhall be recorded in ſuch court. When the office ſhall become vacant, during the receſs of the General Aſſembly, the Governor, with advice of the Council of State, ſhall appoint a ſucceſſor, to act until ſuch time as he or another ſhall be legally elected. Upon a motion, made to the General Court, by a ſucceeding Treaſurer, on behalf of the commonwealth, whereof more than ten days notice in writing ſhall have been given to the obligors, judgment may be awarded for the penalty of the ſaid bond, to be diſcharged by payment of ſo much as a jury, to be empanneled inſtantly, for trial of the iſſue, if an iſſue be joined, or to enquire of damages, if the defendants make default, ſhall find to be due by breach of the condition aforeſaid, with coſts. The Treaſurer, in books provided at the public expence, ſhall ſtate the accounts of money by him received for public taxes and impoſitions, and paid in purſuance of acts and votes of General Aſſembly, in ſuch a manner as that the neat produce of the whole revenue, as well as of every branch thereof, and the amount of diſburſements in diſcharge of the ſeveral demands may diſtinctly appear; and lay the ſaid accounts, from time to time, and all his other tranſactions, before the General Aſſembly. And if he divert or miſapply any part of the public treaſure, being convicted thereof upon ſuch proſecution as is before preſcribed, he ſhall not only be adjudged to pay double the money ſo found to have been diverted or miſapplied, to the uſe of the commonwealth, but ſhall be thereby rendered incapable of any office of public truſt.

CHAP. XIII.

A BILL for appointing Naval Officers.

SECTION I. BE it enacted by the General Aſſembly, that the diſtricts of the Naval Officers ſhall remain as they have been heretofore laid off, that is to ſay, two for James river, one below and the other above Kyth's or Lawn's creek; one for Elizabeth river; one for South Quay; one for York river; one for Rappahannock river; one for South-

Potowmack, and one for each of the counties of Accomack and Northampton. Every future Naval Officer ſhall be appointed by commiſſion of the Governor, and, before he act, ſhall enter into bond, with ſufficient ſurety, before the Governor, in the penalty of five thouſand pounds, with condition for the faithful execution of his office, and ſhall give aſſurance of fidelity to the commonwealth, and take the oath of office in ſome court of record, or before a Judge of the High Court of Chancery or General Court, who ſhall certify the ſame to the court he is a member of to be there recorded.

SECT. II. EVERY Naval Officer ſhall give a permit to any maſter of a veſſel requiring it to lade within the diſtrict of ſuch officer thoſe goods which may be lawfully exported; inſerting in the permit the name and burthen of the veſſel, with ſuch deſcriptions by her conſtruction and rigging as diſtinguiſh her from others, the place where ſhe was built, and the names of the maſter and owner, with the place of abode of the latter, and ſpecifying the cargo which may be put on board; and having taken bond of the maſter, with ſufficient ſurety, in the penalty of one thouſand pounds, if the burthen be equal to, or leſs than, one hundred tons, or of two thouſand pounds, if the burthen be greater, with condition that the cargo ſo to be laded, ſhall not be carried to any place whither it ought not by law to be carried; and that the maſter ſhall, within eighteen months thence next following, produce to the ſaid officer or his ſucceſſor a ſigned and ſealed certificate of ſome chief magiſtrate of the place where the cargo ſhall be delivered, or of two creditable merchants reſiding there, that the cargo had been ſo delivered. The officer to whom ſuch certificate ſhall be produced ſhall immediately cancel the bond: And if no action be commenced within one year after a breach of the condition, if any ſhall happen, the bond, after that time, ſhall be of no force. The Naval Officer ſhall give a permit, at the like requeſt, to any maſter of a veſſel importing goods into the diſtrict of the ſaid officer to carry them, unleſs they ſhall have been imported contrary to law, to any place within the commonwealth and there deliver them; and the maſter breaking bulk or diſpoſing of any part of the cargo without having obtained ſuch permit, ſhall forfeit and pay Before either of thoſe permits ſhall be given, the officer ſhall take bond of the maſter, with ſufficient ſurety, in the penalty of if the burthen of the veſſel be one hundred tons or leſs, if greater than one hundred tons and not leſs than two hundred tons, or if greater than two hundred tons, with condition that ſuch veſſel ſhall not depart the commonwealth, with goods prohibited to be exported by any embargo, during the continuance of ſuch embargo. And before any ſuch permit as aforeſaid, ſhall be given, the officer ſhall alſo take bond of the maſter in the penalty of two hundred pounds, with condition that he will not crop, or cut the bulge or draw the ſtaves of any tobacco caſk put on board of his veſſel, or otherwiſe abuſe or injure ſuch caſk, or knowingly ſuffer it to be done. A Naval Officer ſuſpecting or being informed of a fraud, unlawful concealment, or falſe report of a cargo, may examine upon oath, the mate, boatſwain or any other of the ſeamen belonging to the veſſel within his diſtrict, or any other perſon, not puniſhable for the offence, touching the fact. A Naval Officer, or perſon deputed by him, taking a bribe, directly, or indirectly; or conniving at a falſe or illegal entry, ſhall forfeit and be diſabled to hold his office or any office or employment of the ſame kind. No veſſel ſhall be cleared out before the maſter of her ſhall make oath, or produce an authentic certificate, that the goods laden for exportation had been ſhipped according to law; and the Naval Officer clearing out a veſſel otherwiſe ſhall forfeit And any Naval Officer may go on board of a veſſel within his diſtrict in order to ſearch for goods laden contrary to law, and diſcovering any ſuch may ſeize them, and bring them on ſhore, and the goods ſhall be forfeited. Every Naval Officer ſhall write down in a book, to be kept for that purpoſe, the entries and clearances of veſſels, at his office, with accounts of their cargoes, and deliver copies thereof, every three months, to the Governor.

CHAP. XIV.

A BILL *for the appointment of Clerks to the Governor and Council.*

SECTION I. BE it enacted by the General Aſſembly that the Governor and Council ſhall have power to appoint, from time to time, as they ſhall be wanting, a drawing clerk, a copying clerk, and a clerk of foreign correſpondence, who ſhall each of them take an oath to be adminiſtered by any member of the board, to keep ſecret all ſuch matters as they ſhall direct them to keep ſecret: Which clerks ſhall be removable at their will.

CHAP. XV.

A BILL *for the enliſtment of Soldiers, Sailors and Marines,*

* THIS was a bill deſigned to anſwer a temporary and occaſional purpoſe during the war, and was incorporated into a law in the May ſeſſion 1779, entitled "An act concerning Officers, Soldiers, Sailors and Marines." It is now expired and was deemed unneceſſary to be here inſerted. (See the acts of May ſeſſion 1779, page 9.)

CHAP. XVI.

A BILL *for apprehending Deſerters, and preventing the loſs of Arms and other things delivered to Soldiers.*

SECTION I. BE it enacted by the General Aſſembly, that the commanding officer of the militia of every county, ſhall appoint perſons to ſearch for ſoldiers and ſeamen who ſhall have deſerted from the army or navy of the United American States, or of this commonwealth; and the ſaid ſearchers ſhall apprehend every ſuch deſerter, by them diſcovered, or perſon, for good cauſe, ſuſpected to be ſuch, and carry him before ſome neighboring Juſtice of the Peace, who ſhall cauſe the man ſo apprehended, if he appears by his confeſſion, the teſtimony of witneſſes, or other proof, to be a deſerter, to be conveyed and delivered to the commanding officer in ſuch army or navy at the neareſt poſt or ſtation, if that be within the diſtance of fifty miles, or, if the diſtance be greater, to be committed to the jail of the county, there to be detained until he can be ſo delivered, or ſhall give ſufficient ſecurity to return to the army or navy, and give notice of the commitment, by advertiſing it four times in the Virginia Gazette. He who ſhall convey ſuch deſerter, producing a receipt for him from the officer to whom he ſhall have been delivered, or from the keeper of the jail to which he ſhall have been committed, with a certificate of the ſaid juſtice aſcertaining the number of miles he muſt neceſſarily travel in performing that duty, and

returning, ſhall receive, for his trouble and expence, from the Treaſurer one dollar for every ſuch mile. And any perſon, not appointed a ſearcher as aforeſaid, may apprehend ſuch deſerter, and bring him before a juſtice, who ſhall thereupon proceed in the manner before preſcribed, and producing a certificate thereof from the ſaid juſtice, ſhall receive ten dollars from the ſaid Treaſurer. Whoſoever ſhall harbor or entertain ſuch deſerter, more than twenty four hours, knowing or ſuſpecting him to be ſo, and not diſcovering to a juſtice or ſearcher; or ſhall buy, or, without ſpecial authority, receive in exchange, or otherwiſe, or detain, from any ſoldier or deſerter his wearing apparel, arms, furniture, or accoutrements, or any part of them, or purchaſe them from any other, not empowered to diſpoſe of them, ſhall forfeit, for either offence, five pounds, and, moreover, for the latter, the value of the things bought, received, or detained; one half of which forfeiture ſhall be to the uſe of the commonwealth, and the other to the uſe of the informer.

CHAP. XVII.

A BILL *concerning Seamen.*

SECTION I. BE it enacted by the General Aſſembly, that every ſeaman, whoſe habitation is within this commonwealth, not leſs than eighteen nor more than fifty years old, capable of ſea ſervice, and willing to ſerve in the ſhips or veſſels of the commonwealth, may give in a ticket containing his chriſtian name, ſurname, and proper addition, with his age, and the place of his habitation, and the time when the ticket ſhall be delivered to any Naval Officer, who ſhall tranſmit it to the Board of Trade, to be by them entered in a regiſter. Promotions to commiſſion and warrant officers in the navy becoming vacant, ſhall be made and adjuſted according to the order following: Seamen regiſtered and actually ſerving ſhall be preferred to all others, and of the former thoſe who ſhall have ſerved a longer to ſuch as ſhall have ſerved a ſhorter time, and if the times of ſervice ſhall have been equal, they whoſe tickets ſhall be of prior to them whoſe tickets ſhall be of poſterior dates; and if the merits of the competitors ſhall be equal in thoſe reſpects the preference ſhall be decided by lot. Every regiſtered ſeaman, actually ſerving in the navy, diſabled by age, or wounds, ſo as that he can be no longer uſeful there, and not being in a condition to maintain himſelf comfortably, nor having been promoted to any commiſſion or warrant office, or to the office of maſter, mate, boatſwain, gunner, carpenter, purſer, or ſurgeon, obtaining a certificate thereof from the captain, maſter, and ſurgeon, of the ſhip, or veſſel, on board of which he had ſerved, under their hands and ſeals, ſhall receive from the Treaſurer the ſum of every year during his life: And the widow of every regiſtered ſeaman, ſerving on board of a ſhip or veſſel of war, ſlain, or drowned, in the ſervice, if he was not in ſuch a condition, and had not been promoted to ſuch office, as aforeſaid, obtaining the like certificate thereof, ſhall receive from the Treaſurer the ſum of every year during her life. But a regiſtered ſeaman, withdrawing himſelf from the ſervice of the commonwealth, in the time of actual war, and not repairing on board one of the ſhips or veſſels thereof, within thirty days after he ſhall have been required ſo to do by any officer of the navy, unleſs detained by ſickneſs, to be proved by the oaths of two witneſſes, ſhall have no benefit by this act. And out of the wages due or becoming due to every ſeaman ſerving on board a ſhip or veſſel belonging to the commonwealth, or any citizen thereof, and uſed in ſea voyages, ſix pence, per month, ſhall be paid by the commander thereof, if ſhe be a ſhip or veſſel of war, public, or private, to the Treaſurer, or if ſhe be a merchantile ſhip or veſſel, to the Naval Officer of the port where ſhe ſhall be entered inward or cleared outward, who ſhall diſcover the number, wages and time of ſervice of all perſons belonging to the ſhip or veſſel, by examining the commander of her, upon oath, or affirmation, and account for what he ſhall receive to the Treaſurer, and the money, ſo to be collected, ſhall be applied towards reimburſing the annuities to diſabled regiſtered ſeamen, and to the widows of thoſe who ſhall be ſlain or drowned in the public ſervice. Boys of the age of ten years, or upwards, who ſhall beg for alms, or who, or whoſe parents are, or ſhall be chargeable to any county, may, by the Aldermen of the county wherein they inhabit, be bound apprentices, by indentures, to owners or maſters of ſhips, or veſſels, uſed in ſea voyages, and belonging to any ports within the commonwealth, until they ſhall attain to the ages of twenty one years, reſpectively, in every one of which indentures the age of the boy, to be aſcertained by the regiſter of births, or, not being entered therein, by the adjudication of the Aldermen, ſhall be inſerted, with a covenant, on the part of the maſter, that he will provide ſufficient food and convenient raiment and lodging for his apprentice, and employ him in the ſea ſervice, and in ſuch offices as appertain thereto, and, moreover, deliver to him a ſuit of clothes ſuitable to the ſeaſon, to wit: a coat, waiſtcoat, pair of breeches, two pair of ſtockings, a pair of ſhoes, and a hat, with a blanket. And every owner or maſter of a ſhip or veſſel, uſed in ſea voyages, and belonging to a port within the commonwealth, ſhall be obliged to take one of ſuch apprentices, not being under thirteen or above ſeventeen years of age, nor being deficient in health and ſtrength of body, if the ſhip or veſſel be of the burthen of thirty and not more than fifty tuns; another for the next fifty tons of her burthen, and one more for every hundred her burthen ſhall exceed one hundred tons; and refuſing ſo to do, if he ſhall be required, unleſs he ſhall have an equal number of other apprentices, ſhall forfeit ten pounds, to be recovered, with coſts, in an action of debt, by him who will ſue, one half to his own uſe, and the other half to the uſe of the county wherein the boy ſhall inhabit. The apprentice ſo bound ſhall be clothed, if it be neceſſary, and conveyed to the port his maſter ſhall belong to, at the expence of the county, from which he ſhall be ſent. The clerks of the courts ſhall tranſmit the names of the maſters and apprentices, with the ages of the latter, and the times when they ſhall be bound, to the Board of Trade, to be entered by them in their regiſter; and the apprentices, after they ſhall have been eighteen years old, ſhall be deemed regiſtered ſeamen, entitled to the benefit of this act, in like manner, as if they had voluntarily given in tickets. The county court, neareſt to a port in which an apprentice, bound by virtue of this act, or otherwiſe, ſhall ſerve or ought to ſerve on board of a ſhip or veſſel, ſhall, at any time, when they ſhall be ſitting, receive and hear a complaint made to them by him of hard or ill uſage, or breach of covenant, and redreſs the complainant, if he ſhall appear to have juſtly complained, preſcribing milder and better treatment for the future, ordering an action to be commenced againſt the maſter, or removing the apprentice and binding him to another maſter, as it may ſeem right and expedient. Any Alderman may, by warrant, under his hand and ſeal, cauſe any able bodied man, who not having wherewithal to maintain himſelf, ſhall be found loitering, and ſhall leave a wife or children, without means for their ſubſiſtance, whereby they may become burthenſome to their county, or ſhall wander abroad, without betaking himſelf to ſome honeſt employment, or ſhall go about begging, to be apprehended and brought before him, and, if he ſhall, upon examination of himſelf, or by the teſtimony of others, appear to be within this deſcription, the Alderman, by his warrant, may cauſe ſuch vagrant to be ſent and delivered on board one of the ſhips of war of the commonwealth, there to ſerve as a ſeaman, during the term of eighteen months. An agreement in writing ſhall be made between the maſter or commander and ſeamen, not being his apprentices, of every ſhip or veſſel, belonging to any port of the commonwealth, and bound to parts beyond ſea and be ſigned by both parties and

by the ſeamen, within three days after they ſhall have ſhipped and entered themſelves, reſpectively, declaring the voyage to be performed, and aſcertaining the wages, either by the month, or for the tun, to be paid to every ſeaman; and any ſuch maſter or commander, proceeding on the voyage, before that agreement ſhall be made and ſigned, ſhall forfeit the ſum of five pounds, for every ſeaman, who ſhall not have ſigned it, carried out in the veſſel, to be recovered, with coſts, by information, and to be paid to the Treaſurer, for the ſame purpoſe as the ſix pence per month, out of the wages of ſeamen. Any ſeaman, who ſhall have ſigned ſuch agreement, abſenting himſelf from the ſhip or veſſel, without leave of the maſter, or other officer having charge of her, ſhall forfeit, for every day's abſence, the pay of two days, and refuſing to proceed on the voyage, or deſerting from the ſhip or veſſel, ſhall forfeit the wages then due. But ſeamen ſhall not be deprived, by the agreement, of any remedy for their wages which they might have lawfully purſued, before this act; and in any ſuit between them and the maſter it ſhall be incumbent upon him to exhibit the agreement, if it ſhall be requiſite, and they ſhall not loſe or ſuffer any thing by his ſuppreſſion of it, or failure to produce it. The maſter or commander of any ſhip or veſſel, arriving from beyond ſea, into a port of the commonwealth, ſhall, within thirty days after ſhe ſhall be entered at the naval office, unleſs there ſhall have been a covenant to the contrary, or at the time of diſcharging the ſeamen, whichever ſhall firſt happen, pay the wages due to every ſeaman, if he ſhall demand them, after deducting what may, by virtue of this act, be withheld, or, refuſing ſo to do, ſhall pay to him, over and above the wages detained, the further ſum of twenty ſhillings, to be recovered with the other demand. A ſeaman, who ſhall belong to a ſhip or veſſel, travelling by land, and having no certificate of his diſcharge, ſigned by the maſter or commander, or a paſs or order, with the like ſignature, or that of ſome other officer of the ſhip or veſſel, unleſs he ſhall be going to a proper place to ſeek redreſs of any grievance, ſhall be deemed a deſerter, and may be apprehended by any perſon, and brought before a Juſtice of the Peace, and ſhall be, by his warrant, returned, through the hands of conſtables, one taking him from another, and conveying him to the next; and for this ſervice the maſter or commander, if the ſeaman ſhall not have been diſcharged, ſhall pay to the perſon who ſhall apprehend him, ten ſhillings, and to the conſtables one ſhilling for every mile they ſhall conduct him, to be proportioned amongſt them by the number of miles they ſhall reſpectively go, in the moſt direct way; to aſcertain which a certificate of the whole diſtance, from the place where he was apprehended, to the port the ſhip or veſſel ſhall be at, ſhall be endorſed by the Juſtice of the Peace on his warrant; and if the maſter or commander ſhall refuſe to pay the money to the perſons entitled to it, or to others authoriſed by their orders to receive it, the Naval Officer of the port, with whom the warrant and orders ſhall be left, ſhall not clear the ſhip or veſſel out, before it ſhall be paid to him, for their uſe, unleſs the maſter or commander ſhall make it appear, by the oath of himſelf, or of ſome other, on board, that the ſeaman had not been returned, or had been diſcharged, before he was apprehended; and the maſter or commander paying the money may deduct it out of the wages becoming due to the ſeaman. A conſtable wilfully or negligently ſuffering a ſeaman, not being diſcharged from his ſhip or veſſel, who ſhall have been committed by warrant of a Juſtice of the Peace to his cuſtody, to eſcape, unleſs he ſhall recover him, and proceed to deliver him as the warrant required, ſhall, upon complaint made to a Juſtice of the Peace, which he ſhall be ſummoned to anſwer, pay the rewards due to the perſon who apprehended the ſeaman, and to the conſtables by whom he had before been conducted, and ſhall moreover pay the ſum of to the maſter or commander of the ſhip or veſſel, to be recovered, with coſts, by petition to the county, city, or borough court. A perſon concealing a deſerted ſeaman, or entertaining any ſeaman, not going to a proper place to ſeek redreſs of any grievance, nor being employed in the proper buſineſs of his office, ſhall pay the ſum of to the maſter or commander of the ſhip or veſſel, to which he ſhall belong, to be recovered, with coſts. The maſter or commander of a ſhip or veſſel, who ſhall entertain, employ, or hire a ſeaman, belonging to a ſhip or veſſel, owned by a citizen of the commonwealth, before he ſhall have been diſcharged, ſhall pay to the owner the ſum of twenty pounds, to be recovered, with coſts, by action of debt. Two Juſtices of the Peace may hear a complaint made to them of any mutinous or refractory behavior in a ſeaman or waterman, and, cauſing the parties to appear before them, at a convenient time, in ſome place near the ſhip or veſſel they ſhall belong to, with their witneſſes, may adjudge the accuſed, if he ſhall be proved to have ſtricken, or to have offered to ſtrike the maſter, or other ſuperior officer, or to have threatened to do any bodily hurt to him, or to have preremptorily refuſed, without juſt cauſe, to obey his commands, to forfeit to the owner ſuch part of the wages due to the ſeaman or waterman as will make reaſonable amends for the injury and damage, not exceeding the ſum of five pounds; and if ſatisfaction cannot be obtained by other means, may award execution for the amount of the forfeiture, or ſo much thereof as ſhall exceed the wages due, againſt his goods and chattles. But ſeamen or watermen ſhall not be obliged to ſerve on board of any ſhip or veſſel, if ſuch ſufficient wholeſome victuals and drink, and convenient accommodations, as are cuſtomary in the merchant ſervice, ſhall not be provided for and allowed to them. A maſter, who ſhall correct immoderately, or maim a ſeaman under his command, may, be brought before any Juſtice of the Peace, by his warrant, and be compelled to give ſecurity for his good behavior, and ſhall moreover be liable to the action of the party injured for damages. The maſter or commander of a ſhip or veſſel, who ſhall put and leave on ſhore any ſick or diſabled ſeaman, not entitled to his diſcharge by their contract, without providing for his cure and maintenance, ſhall forfeit ten pounds, to be recovered, with coſts, by action of debt, one half to him who will ſue, to his own uſe, and the other half to the uſe of the county, in which the ſeaman ſhall be left, and applied towards his cure and maintenance. The maſter or commander of a ſhip or veſſel, diſcharging a ſeaman from his ſervice, ſhall ſign and deliver to him a certificate thereof, and refuſing ſo to do, when it ſhall be required, ſhall pay the ſum of five pounds to the ſeaman, to be recovered, with coſts, by action of debt.

CHAP. XVIII.

A BILL for ſupplying the Public with Lead.

SECTION I. BE it enacted by the General Aſſembly, that the Governor, with advice of the Council, from time to time, may hire or purchaſe, ſo many laborers to work in the lead mines, in the county of Montgomery, as may be beneficially employed therein, for the uſe of the public, and put them, with the others already there, under the direction of a manager. Of the lead produced from the ſaid mines ſo much as may be ſpared, without danger of detriment to the commonwealth, ſhall be diſpoſed of to the United States of America, or any of them, and what they want not may be ſold to others. A reaſonable annual rent ſhall be paid to the proprietors of the land in which the mines are opened, to be adjuſted between the ſaid proprietors and the Governor, with advice of the Council. But the ſaid mines, if the proprietors will undertake, at their own charges, to work them, and engage to deliver one hundred tons of lead, every year, to the uſe of the public, at the price of by the ton, and give ſatisfactory aſſurance that the contract ſhall be performed, ſhall be reſigned to the ſaid proprietors, and ſhall

not be resumed so long as that engagement shall be punctually observed and fulfilled. All expences incurred in the execution of this act shall be defrayed in like manner as other public debts and accounts thereof, as well as of the disposition of the lead, shall be orderly kept, and laid before the General Assembly, whenever it shall be required.

CHAP. XIX.

A BILL for establishing Cross Posts.

SECTION I. FOR the more general diffusion of public intelligence among the citizens of this commonwealth and the maintenance of correspondence between friends and merchants, be it enacted by the General Assembly, that across the post road, which is, or shall be hereafter established through this commonwealth, by Congress, according to the powers with which they are invested by the confederating states of America, their shall be established postriders on or near to the following lines, to wit:

SECT. II. ONE from the mouth of Potowmack up the same to the confluence of and the south branch thereof to its head, and thence to the Monongahalia and down the same to Fort Pitt.

SECT. III. ONE other from the mouth of Rappahannock up the same and the Hedgeman branch to the head thereof, and thence to Winchester.

SECT. IV. ONE other from the mouth of York river up the same and up Pamunkey, the north Anna and Terry's run, thence to and up the Rapidan and Conway to its head and thence northwestwardly to the North mountain.

SECT. V. ONE other from the mouth of James river up the same to the mouth of Appamatox, there to be branched into two, one of them to go up Appamatox to its head, the other up James river to the confluence of the Rivanna and Fluvanna, there again to be branched into two, one of them to proceed up the Rivanna to Charlottsville, thence to Staunton, the Warm Springs and Greenbrier; and the other up the Fluvanna to Carter's creek and thence to the lead mines.

SECT. VI. ONE other from South Quay to Nottoway river, there to be branched into two, one of them to go up Nottoway river to its head, the other to and up Roanoke river to the confluence of Staunton and Dan, there to be branched again into two, one of them to proceed up Staunton river to its head, and the other along Dan river and the country line to their last intersection and then to Holston river.

SECT. VII. THE general post master shall from time to time determine on the roads along which the said riders shall pass, having regard in such determination to those which are best, most direct, through the thickest settlements and coinciding most nearly with the lines before described.

SECT. VIII. THE said riders shall perform the journey assigned them, from stage to stage, forwards and backwards, once in every week, and between such hours as shall be prescribed to them by the postmaster general, giving and taking way bills for the more certain proof thereof; and to enable them to do this, all ferry keepers shall give them passage at their ferries as soon as required, gratis, and in preference to all other passengers.

SECT. IX. THERE shall moreover be established, for the same purposes, a boat, to pass and repass weekly, between Cherrystone's, on the Eastern shore, and the town of York.

SECT. X. THE public printer for the time being, or if there be more than one, then such one of them as the Governor and Council shall appoint, shall be postmaster general, with power to appoint deputy postmasters, so many and at such stages as shall be requisite, which deputies shall employ riders with their horses, from stage to stage, and a boat and master in the case before directed, on such wages as shall be directed by their principal; and in all things appertaining to their office shall follow his instructions.

SECT. XI. THE masters and agents of the said office shall have the sole and exclusive right of taking and conveying all letters and packets passing through any part of this commonwealth, except such as shall be conveyed by the masters and agents of the continental post office along the post road established by Congress as before recited; such as shall be passing from any place to the next post road or stage; such as shall be sent by the carriers of goods along with and concerning the said goods; such as are sent by any private friend without fee in their way of journey or travel, or by any messenger express, employed for the particular occasion; and except also commissions, warrants, affidavits, process or proceedings or the returns thereof issuing from the Legislative, Executive, or Judiciary departments in this commonwealth.

SECT. XII. THE said masters and deputies may lawfully take for the post of any single letter twenty miles, six pence, and so in proportion for any greater distance, and for a double, treble or other letter; for the post of every printed news-paper, twenty miles, one penny, and so in proportion for any greater distance: And for the post of every packet of writs, deeds, or other things, twenty miles, one shilling and six pence for every ounce weight, and so in proportion for any greater distance. All fractions whereby such letters or packets, or the post thereof shall exceed any integral number of the said distances, weights, or sheets being to be counted as an additional integral number; and any distance less than twenty miles as an integer; which postage shall be paid at the stage where the letter, news-paper or packet is last delivered, unless any person shall chuse to pay the same earlier, and on failure of payment, at or before the last stage, such letter, paper or packet may be detained by the master or agent until payment. But acts and journals of Assembly sent into the counties by order of either House, and letters to and from the Governor or any of the public boards shall be carried by the riders ex officio and free of postage.

SECT. XIII. THE said postmaster general in determining the postroads, settling the stages and hours, appointing, continuing, removing and instructing postmasters, shall be subject to the controul of the Governor with the advice of Council. He shall also annually, at such time as the Auditors shall direct, make up a full and fair account, on oath, of the expences of the institution, and also of the postages received, stating therein every article specially, and lay the same before the Auditors, and on their certificate shall pay to, or receive from the Treasurer, any balance appearing due thereon. It shall be also lawful for the Auditors, on the application of the postmaster general, to give their warrant on the Treasurer for the advance of such sums as they shall think reasonable and necessary for carrying on the execution of this act, charging the same to the postmaster general and requiring account of the expenditure thereof at their next settlement. The deputy postmasters shall be obliged, in like manner, to render account, on oath, to their principal whenever called on by him, and to pay to him any balance remaining in their hands: And on failure either of the principal, or of any deputy postmaster to render account, or pay any balance in their hands as before required, it shall be lawful for a Court of Justice on motion, and ten days previous notice to give judgment for such balance, or if it be for failure to render account, then to give such judgment or judgments as have been usual in actions or writs of account and to issue execution accordingly.

CHAP. XX.

A BILL *directing the courſe of Deſcents.*

SECTION I. BE it enacted by the General Aſſembly, that henceforth when any perſon having titie to any real eſtate of inheritance, ſhall die inteſtate as to ſuch eſtate, it ſhall deſcend and paſs in parcenery to his kindred male and female in the following courſe: that is to ſay:

SECT. II. TO his children or their deſcendants, if any their be:

SECT. III. IF there be no children, nor their deſcendants, then to his father:

SECT. IV. IF there be no father, then to his mother, brothers and ſiſters and their deſcendants, or ſuch of them as there be:

SECT. V. IF there be no mother, nor brother, nor ſiſter, nor their deſcendants, then the inheritance ſhall be divided into two moieties, one of which ſhall go to the paternal, the other to the maternal kindred, in the following courſe, that is to ſay:

SECT. VI. FIRST to the grandfather.

SECT. VII. IF there be no grandfather, then to the grandmother, uncles and aunts on the ſame ſide, and their deſcendants, or ſuch of them as there be:

SECT. VIII. IF there be no grandmother, uncle nor aunt, nor their deſcendants, then to the great-grandfathers, or great-grandfather if there be but one:

SECT. IX. IF there be no great grandfather, then to the great-grandmothers, or great-grandmother if there be but one, and the brothers and ſiſters of the grandfathers and grandmothers, and their deſcendants, or ſuch of them as there be:

SECT. X. AND ſo on in other caſes without end; paſſing to the neareſt lineal male anceſtors; and for the want of them to the lineal female anceſtors in the ſame degree, and the deſcendants of ſuch, male and female lineal anceſtors, or to ſuch of them as there be.

SECT. XI. BUT no right in the inheritance ſhall accrue to any perſons whatever, other than to children of the inteſtate, unleſs they be in being and capable in law to take as heirs at the time of the inteſtates death.

SECT. XII. AND where for want of iſſue of the inteſtate, and of father, mother, brothers and ſiſters and their deſcendants, the inheritance is before directed to go by moieties to the paternal and maternal kindred, if there ſhould be no ſuch kindred on the one part, the whole ſhall go to the other part: And if their be no kindred either on the one part or the other, the whole ſhall go to the wife or huſband of the inteſtate. And if the wife or huſband be dead, it ſhall go to her or his kindred, in the like courſe as if ſuch wife or huſband had ſurvived the inteſtate and then died, entitled to the eſtate.

SECT. XIII. AND in the caſes before-mentioned where the inheritance is directed to paſs to the aſcending and collateral kindred of the inteſtate, if part of ſuch collaterals be of the whole blood to the inteſtate, and other part of the half blood only, thoſe of the half blood ſhall inherit only half ſo much as thoſe of the whole blood: But if all be of the half blood, they ſhall have whole portions, only giving to the aſcendants (if there be any) double portions.

SECT. XIV. And where the children of the inteſtate, or his mother, brothers, and ſiſters, or his grandmother, uncles, and aunts, or any of his female lineal anceſtors living, with the children of his deceaſed lineal anceſtors male and female in the ſame degree come into the partition, they ſhall take per capita, that is to ſay, by perſons; and where a part of them being dead, and a part living, the iſſue of thoſe dead have right to partition, ſuch iſſue ſhall take per ſtirpes or by ſtocks, that is to ſay, the ſhare of their deceaſed parent.

SECT. XV. AND where any of the children of the inteſtate, or their iſſue, ſhall have received from the inteſtate in his life time any real eſtate by way of advancement, and ſhall chuſe to come into partition with the other parceners, ſuch advancement ſhall be brought into hotchpot with the eſtate deſcended.

SECT. XVI. IN making title by deſcent it ſhall be no bar to a demandant that any anceſtor through whom he derives his deſcent from the inteſtate, is or hath been an alien. Baſtards alſo ſhall be capable of inheriting or of tranſmitting inheritance on the part of their mother, in like manner as if they had been lawfully begotten of ſuch mother.

SECT. XVII. WHERE a man having by a woman one or more children, ſhall afterwards intermarry with ſuch woman, ſuch child or children if recognized by him ſhall be thereby legitimated. The iſſue alſo of marriages deemed null in law ſhall nevertheleſs be legitimate.

CHAP. XXI.

A BILL *concerning Wills; the diſtribution of Inteſtate's eſtates; and the duty of Executors and Adminiſtrators.*

SECTION I. BE it enacted by the General Aſſembly that every perſon aged twenty one years or upwards, being of ſound mind, and not a married woman, ſhall have power at his will and pleaſure, by laſt will and teſtament, in writing, to deviſe all the eſtate, right, title, and intereſt, in poſſeſſion, reverſion, or remainder, which he hath, or at the time of his death ſhall have, of, in, or to lands, tenements, or hereditaments, or annuities, or rents charged upon or iſſuing out of them; ſo as ſuch laſt will and teſtament be ſigned by the teſtator, or by ſome other perſon in his preſence, and by his direction, and moreover, if not wholly written by himſelf, be atteſted by two or more credible witneſſes ſubſcribing their names in his preſence.

SECT. II. SAVING to the widows of teſtators their dower in ſuch lands, tenements, rents, or annuities, according to the laws, which ſhall not be prejudiced by any deviſe thereof.

SECT. III. NO deviſe ſo made, or any clauſe thereof, ſhall be revocable but by the teſtator's deſtroying, cancelling, or obliterating the ſame, or cauſing it to be done in his preſence, or by a ſubſequent will, codicil, or declaration in writing, made as aforeſaid. But every laſt will and teſtament, made when the teſtator had no

child living, wherein any child he might have is not provided for or mentioned, if, at the time of his death he leave a child, or leave his wife enfeint of a child which ſhall be born, ſhall have no effect during the life of ſuch after born child, and ſhall be void unleſs the child die without having been married, or before he or ſhe ſhall have attained the age of twenty one years. When a teſtator ſhall leave children born, and his wife enfeint, the poſthumous child, if it be unprovided for by ſettlement, and be neither provided for nor diſinherited, but only pretermitted by the laſt will and teſtament, ſhall ſucceed to the ſame portion of the father's eſtate as ſuch child would have been intitled to, if the father had died inteſtate; towards raiſing which portion, the deviſees and legatees ſhall contribute proportionably out of the parts deviſed and bequeathed to them by the ſame will and teſtament.

SECT. IV. NO perſon under the age of eighteen years ſhall be capable of diſpoſing of his chattels by will.

SECT. V. NO nuncupative will, ſhall be eſtabliſhed unleſs it be made in the time of the laſt ſickneſs of the deceaſed, at his habitation, or where he hath reſided for ten days next preceeding, except where the deceaſed is taken ſick from home, and dies before he returns to ſuch habitation; nor where the value exceeds ten pounds unleſs it be proved by two witneſſes that the teſtator called on ſome perſon preſent to take notice or bear teſtimony that ſuch is his will, or words of the like import.

SECT. VI. AFTER ſix months have elapſed from the time of ſpeaking the pretended teſtamentary words, no teſtimony ſhall be received to prove a nuncupative will, unleſs the teſtimony, or the ſubſtance thereof, ſhall have been committed to writing within ſix days after making the will.

SECT. VII. NO will in writing, or any deviſe therein of chattels, ſhall be revoked by a ſubſequent will, codicil, or declaration, unleſs the ſame be in writing.

SECT. VIII. ANY ſoldier in actual military ſervice, or any mariner or ſeaman being at ſea, may diſpoſe of his chattels as he might heretofore have done.

SECT. IX. IF any perſon ſhall ſubſcribe his name as a witneſs to a will wherein any bequeſt is given to him, if the will may be not otherwiſe proved, the bequeſt ſhall be void, and ſuch witneſs ſhall be allowed and compellable to appear and give teſtimony on the reſidue of the will in like manner as if no ſuch bequeſt had been made. But if ſuch witneſs would be entitled to any ſhare of the teſtator's eſtate, in caſe the will were not eſtabliſhed, ſo much of his ſaid ſhare ſhall be ſaved to him as ſhall not exceed the value of the legacy bequeathed him.

SECT. X. THE ſeveral county courts ſhall have power to hear and determine all cauſes, matters, ſuits and controverſies, teſtamentary, ariſing within their reſpective juriſdictions, and to examine and take the proof of wills, and grant certificates thereof according to the methods and rules following, that is to ſay: If any teſtator ſhall have a manſion houſe or known place of reſidence, his will ſhall be proved in the court of the county wherein ſuch manſion houſe or place of reſidence is: If he hath no ſuch place of reſidence, and lands be deviſed in the will, it ſhall be proved in the court of the county wherein the lands lie, or in one of them, where there ſhall be lands in ſeveral counties: And if he hath no ſuch known place of reſidence, and there be no lands deviſed, then the will may be proved either in the county where the teſtator ſhall die, or that wherein his eſtate, or the greater part thereof ſhall be, or ſuch will may in any caſe be proved in the General Court.

SECT. XI. WHEN any will ſhall be exhibited to be proved, the court having juriſdiction as aforeſaid, may proceed immediately to receive the proof thereof, and grant a certificate of ſuch probat: If however any perſon intereſted ſhall within ſeven years afterwards appear, and by his bill in Chancery conteſt the validity of the will, an iſſue ſhall be made up, whether the writing produced be the will of the teſtator or not, which ſhall be tried by a jury, whoſe verdict ſhall be final between the parties; ſaving to the court a power of granting a new trial for good cauſe, as in other trials; but no ſuch party appearing within that time, the probat ſhall be forever binding.

SECT. XII. IN all ſuch trials by jury, the certificate of the oath of the witneſſes, at the time of the firſt probat, ſhall be admitted as evidence, to have ſuch weight as the jury ſhall think it deſerves.

SECT. XIII. NO nuncupative will ſhall be proved within fourteen days after the death of the teſtator, nor until his widow, if any, and next of kin have been ſummoned to conteſt the ſame if they pleaſe.

SECT. XIV. IF the General Court or any county court, having juriſdiction as aforeſaid, ſhall be informed that any perſon hath the will of a teſtator in his cuſtody, ſuch court may ſummon ſuch perſon, and by a proper proceſs compel him to produce the ſame.

SECT. XV. IF the executors named in any will ſhall all refuſe the executorſhip, or being required to give ſecurity, as herein after-mentioned, ſhall refuſe, or fail to give the ſame, which ſhall amount to a refuſal of the executorſhip, in either caſe, the court having juriſdiction as aforeſaid, may receive the proof of the will and grant a certificate for obtaining letters of adminiſtration with the ſame annexed, to the perſon to whom adminiſtration would have been granted if there had been no will of the deceaſed.

SECT. XVI. BEFORE granting a certificate of the probat of any will, the Executor or adminiſtrator with the will annexed, as the caſe ſhall be, ſhall in open court take the following oath, to wit: "You ſhall ſwear "that this writing contains the true laſt will of the within named as far as you know or believe; "and that you will well and truly perform the ſame, by paying firſt his debts, and then the legacies con- "tained in the ſaid will, as far as his goods, chattels and credits will extend and the law charge you; and that "you will make a true and perfect inventory of all the ſaid goods, chattels and credits, as alſo a juſt account "when thereto required." And ſhall alſo give bond in ſuch penalty as will be equal to the full value of the eſtate at the leaſt, and with ſuch ſecurity as ſhall be approved of by the court, with the following condition, to wit: "The condition of this obligation is, that if the ſaid executor of the laſt will and teſtament "[or adminiſtrator, with the will annexed, of all the goods, chattels and credits] of deceaſed, "do make a true and perfect inventory of all and ſingular the goods, chattels and credits of the ſaid deceaſed, "which have or ſhall come to the hands, poſſeſſion or knowledge of the ſaid or into the hands "or poſſeſſion of any other perſon or perſons for , and the ſame ſo made do exhibit into the court "at ſuch time as ſhall be thereto required by the ſaid court; and the ſame goods, chattels and "credits do well and truly adminiſter according to law; and make a juſt and true account of actings and "doings therein, when thereunto required by the ſaid court; and further do well and truly pay and deliver all "the legacies contained and ſpecified in the ſaid will, as far as the ſaid goods, chattels and credits will extend "according to the value thereof, and as the law ſhall charge ; then this obligation to be void, or "elſe to remain in full force."

SECT. XVII. WHICH bond ſhall be payable to the Judges or Juſtices ſitting in court and their ſucceſſors, and ſhall not become void upon the firſt recovery, but may be put in ſuit and proſecuted from time to time, by, and at the coſts of any party injured, by a breach thereof, until the whole penalty be recovered thereupon.

SECT. XVIII. BUT where any teſtator ſhall leave viſible eſtate, more than ſufficient to pay all his debts, and by will ſhall direct that his executors ſhall not be obliged to give ſecurity, in that caſe no ſecurity ſhall be required, unleſs the court ſhall ſee cauſe from their own knowledge or the ſuggeſtions of creditors or legatees, to ſuſpect the executors of fraud, or that the teſtator's perſonal eſtate will not be ſufficient to diſcharge all his debts, and ſhall require ſecurity, when the ſame ſhall be given, before a certificate ſhall be granted, notwithſtanding any directions to the contrary in the teſtator's will.

SECT. XIX. THE power of executors over their teſtator's eſtates before probat of the will, is not hereby reſtrained, but ſhall continue as heretofore.

SECT. XX. DURING any conteſt about a will, or in the abſence of executors, or whenever the court, from any other cauſe, ſhall judge it convenient, they may appoint any perſon or perſons to collect and preſerve the eſtate of any decedent, until a probat of his will, or adminiſtration of his eſtate, be granted, taking bond and ſecurity for collecting the eſtate, making an inventory thereof, and ſafe keeping and delivering up the ſame, when required, to the executors or adminiſtrators.

SECT. XXI. WHEN any widow ſhall not be ſatisfied with the proviſion made for her by the will of her huſband, ſhe may within one year from the time of his death, before the General Court or court of the county, having juriſdiction of the probat of his will as aforeſaid, or by deed, executed in the preſence of two or more credible witneſſes, declare that ſhe will not take or accept the proviſion made for her by ſuch will, or any part thereof, and renounce all benefit which ſhe might claim by the ſame will; and thereupon ſuch widow ſhall be intitled to one third part of the ſlaves whereof her huſband died poſſeſſed, which ſhe ſhall hold during her life, and at her death they and their increaſe ſhall go to ſuch perſon or perſons to whom they would have paſſed and gone if ſuch declaration had not been made; and ſhe ſhall moreover be entitled to ſuch ſhare of his other perſonal eſtate as if he had died inteſtate, to hold to her as her abſolute property; but every widow not making a declaration within the time aforeſaid, ſhall have no more of her huſband's ſlaves or perſonal eſtate than is given her by his will.

SECT. XXII. ALL original wills ſhall be recorded and ſhall alſo remain in the clerk's office of the court wherein they are reſpectively proved, except during ſuch time as they may be in any ſuperior court, having been removed thither for inſpection by certiorari, or otherwiſe, after which they ſhall be returned to the ſaid office.

SECT. XXIII. WHEN any perſon ſhall die inteſtate as to his goods and chattels or any part thereof, after funerals, debts and juſt expences paid, if their be no child, one moiety, or if there be a child or children, one third of the ſurplus ſhall go to the wife, but ſhe ſhall have no more than the uſe for her life of ſuch ſlaves as ſhall be in her ſhare, and the reſidue of the ſurplus, and after the wife's death, the ſlaves in her ſhare, or if there be no wife, then the whole of ſuch ſurplus ſhall be diſtributed in the ſame proportions, and to the ſame perſons as lands are directed to deſcend in and by an act of General Aſſembly, intitled, "An act directing the courſe of "deſcents." Nothing in this act contained ſhall be underſtood ſo as to compel the huſband to make diſtribution of the perſonal eſtate of his wife dying inteſtate. Where any children of the inteſtate, or their iſſue, ſhall have received from the inteſtate, in his life time, any perſonal eſtate by way of advancement, and ſhall chuſe to come into the diſtribution with the other perſons intitled, ſuch advancement ſhall be brought into hotchpot with the diſtributable ſurplus.

SECT. XXIV. THE General Court and the ſeveral county courts reſpectively, ſhall have the like juriſdiction to hear and determine the right of adminiſtration of the eſtates of perſons dying inteſtate, as is herein before-mentioned as to the proof of wills, in reſpect to the inteſtate's place of reſidence, or death, or where the eſtate ſhall lie, and ſhall grant certificates, for obtaining ſuch adminiſtration, to the repreſentatives who apply for the ſame, preferring, firſt the huſband or wife, and then ſuch others as are next intitled to diſtribution, or one or more of them as the court ſhall judge will beſt manage and improve the eſtate.

SECT. XXV. IF no ſuch perſon applies for adminiſtration within thirty days from the death of an inteſtate, the court may grant adminiſtration to any creditor or creditors who apply for the ſame, or to any other perſon the court ſhall in their diſcretion think fit: But if any will ſhall afterwards be produced and proved by executors, or the wife or other diſtributee, who ſhall not have before refuſed, ſhall apply for the adminiſtration, the ſame ſhall be granted, in like manner as if the former had not been obtained.

SECT. XXVI. BEFORE granting a certificate for the adminiſtration of any eſtate, the perſon or perſons to whom the ſame is granted, ſhall in open court take the following oath, to wit: "You ſhall ſwear that "deceaſed, died without any will, as far as you know or believe, and that you will well and truly adminiſter "all and ſingular the goods, chattels and credits of the ſaid deceaſed, and pay his debts as far as his goods, "chattels and credits will extend and the law require you; and that you will make a true and perfect inventory "of all the ſaid goods, chattels and credits, as alſo a juſt account when thereunto required. So help you God." And ſhall alſo give bond in a penalty at leaſt equal to the value of the eſtate, and with ſuch ſecurity as ſhall be approved of by the court, with the following condition, to wit: "The condition of this obligation is, that if "the ſaid adminiſtrator of the goods, chattels and credits of deceaſed, do make a true and "perfect inventory of all and ſingular, the goods, chattels and credits of the ſaid deceaſed, which have or ſhall "come to the hands, poſſeſſion or knowledge of the ſaid or into the hands or poſſeſſion of any "other perſon or perſons for ; and the ſame ſo made, do exhibit into the court when "he ſhall be thereto required by the ſaid court; and ſuch goods, chattels and credits do well and truly admi-"niſter according to law; and further do make a juſt and true account of his actings and doings therein, when "thereto required by the ſaid court: And all the reſt of the ſaid goods, chattels and credits which ſhall be "found remaining upon the account of the ſaid adminiſtrator, the ſame being firſt examined and allowed by the "Juſtices of the ſaid court, for the time being, ſhall deliver and pay unto ſuch perſons reſpectively, as are intitled "to the ſame by law. And if it ſhall hereafter appear that any laſt will and teſtament was made by the "deceaſed, and the ſame be proved in court, and the executor obtain a certificate of the probat thereof, and the "ſaid do in ſuch caſe, being required, render and deliver up his letters of adminiſtration, then this "obligation to be void, or elſe to remain in full force," which bond ſhall be payable to the ſitting Juſtices and their ſucceſſors, and may be put in ſuit and proſecuted, in like manner as is before directed in the caſe of bonds to be given by executors or adminiſtrators with the will annexed.

SECT. XXVII. BUT no ſecurity for an executor or adminiſtrator ſhall be chargable beyond the aſſets of the teſtator or inteſtate, by reaſon of any omiſſion or miſtake in pleading or falſe pleading of ſuch executors or adminiſtrator.

SECT. XXVIII. IF any court ſhall grant a certificate for obtaining adminiſtration of the eſtate of any perſon deceaſed, without taking good ſecurity for the ſame, as aforeſaid, to be judged of according to the apparent

circumſtances of the ſecurity when taken, and not from ſubſequent accidents or diſcoveries thereof, the Juſtices of ſuch court then ſitting, ſhall be anſwerable to the perſon or perſons injured, for all loſs or damage occaſioned by the not requiring any, or by the taking inſufficient ſecurity, recoverable, with coſts, by action on the caſe, in any court of record.

SECT. XXIX. WHEN ſecurities for executors or adminiſtrators conceive themſelves in danger of ſuffering thereby, and petition the court for relief, the court ſhall ſummon the executor or adminiſtrator, and make ſuch order or decree thereupon to relieve and ſecure the petitioners, by counter ſecurity, or otherwiſe, as to them ſhall ſeem juſt and equitable.

SECT. XXX. ALL certificates of probat, or of adminiſtration, atteſted by the clerk, ſhall enable the executor or adminiſtrator to act, and may be produced or given in evidence in any court within this commonwealth, and be as effectual as a probat or letters of adminiſtration made out in due form; nevertheleſs the clerks of the courts ſhall, when required by any executor or adminiſtrator, make out ſuch probat or letters, in due form, in the name of the firſt Juſtice of the court, which probat or letters ſhall be ſigned by ſuch Juſtice, and ſealed with the county ſeal, if the will be proved in a county court, or with the ſeal of the commonwealth if proved in the General Court.

SECT. XXXI. THE clerk of every county court ſhall half yearly, in the months of April and October, return to the clerk of the General Court a liſt of all certificates granted in his court for probats and adminiſtrations, within the preceeding half year, in this form [date of certificate] [name of teſtator or inteſtate] [names of ſecurities] [penalty of bond] which liſts, together with ſuch certificates as are granted in the General Court, ſhall be entered by the clerk of the General Court, alphabetically, in books for that purpoſe.

SECT. XXXII. EVERY court granting a certificate for a probat or adminiſtration ſhall nominate three or more appraiſers in every county, where any of the perſonal eſtate of the decedent ſhall be, who being ſworn, before a Juſtice of Peace for that purpoſe, ſhall truly and juſtly, to the beſt of their judgment, view and appraiſe all the perſonal eſtate to them produced; and ſhall return ſuch appraiſement under their hands to the court ordering the ſame; which appraiſement, if ſigned by the executor or adminiſtrator, may be conſidered as an inventory of ſuch part of the eſtate as had theretofore come to his hands.

SECT. XXXIII. INVENTORIES and appraiſements may be given in evidence in any ſuit, by or againſt the executor or adminiſtrator, but ſhall not be concluſive for or againſt him if other teſtimony be given that the eſtate was really worth, or was bona fide, ſold for more or leſs than the appraiſement.

SECT. XXXIV. EACH appraiſer ſhall be intitled to thirty pounds of tobacco, per day, for his attendance, to be paid by the executor or adminiſtrator and charged to the eſtate.

SECT. XXXV. EXECUTORS and adminiſtrators, whether it be neceſſary for payment of debts, or not, ſhall as ſoon as convenient, after they are qualified, ſell at public ſale all ſuch goods of their teſtator or inteſtate, ſpecific legacies excepted, as are liable to periſh, be conſumed, or rendered worſe by keeping, giving ſuch credit as they ſhall judge beſt and the circumſtances of the eſtate will admit of, taking bond and good ſecurity of the purchaſers, and ſhall account for ſuch goods according to the ſales. If more be ſold than will pay the debts and expences, the executor or adminiſtrator may aſſign the bonds for the ſurplus to thoſe intitled to the eſtate, and be diſcharged as to ſo much.

SECT. XXXVI. IF ſuch periſhable goods be not ſufficient for paying the debts and expences, the executor or adminiſtrator ſhall proceed in the next place to ſell the other perſonal eſtate, diſpoſing of the ſlaves laſt, until the debts and expences be all paid, having regard to the privilege of ſpecific legacies.

SECT. XXXVII. NEVERTHELESS if the teſtator direct his eſtate not to be appraiſed it ſhall be ſufficient to return an inventory thereof only, and if he direct his eſtate not to be ſold, the ſame ſhall be preſerved in ſpecie, unleſs a ſale be neceſſary for the payment of debts.

SECT. XXXVIII. THE dead victuals and liquors which at the death of any teſtator or inteſtate ſhall have been laid in for conſumption in his family, ſhall not be ſold by the executor or adminiſtrator, but ſhall remain for the uſe of ſuch family without account thereof to be made: If however, before its final conſumption, any child ſhall leave the family, ſuch child ſhall have a right to carry with him an equal ſhare of what ſhall then be on hand. Any live ſtock which may be neceſſary for the food of the family may alſo be killed for that uſe, at any time before the ſale, diviſion, or diſtribution of the eſtate.

SECT. XXXIX. THE ſale and conveyance of land deviſed to be ſold, ſhall be made by the executors or ſuch of them as ſhall undertake the execution of the will, if no other perſon be thereby appointed for that purpoſe, or if the perſon ſo appointed ſhall refuſe to perform the truſt, or die before he ſhall have completed it.

SECT. XL. IF any perſon ſhall die after the firſt day of March, the ſervants and ſlaves of which he was poſſeſſed, whether held for life or for other intereſt, and which were employed in making a crop, ſhall be continued on the plantations in the occupation of the decedent until the laſt day of December following, and then delivered to thoſe who ſhall have a right to demand the ſame; and their crops ſhall be aſſets in the hands of the executors or adminiſtrators, ſubject to debts, legacies and diſtribution, the levies and taxes, their tools, the expence of feeding them and their families to that time, and delivering them well clothed, being firſt deducted: And if ſuch ſervants or ſlaves be held by the teſtator or inteſtate for his life only, in that caſe the executor or adminiſtrator ſhall be obliged to deliver to thoſe who are intitled in remainder or reverſion, three barrels of Indian corn for every ſuch ſervant or ſlave, old and young, to be allowed in their accounts of adminiſtration. If a teſtator or inteſtate ſhall die after the firſt day of March, all the emblements of his lands, which ſhall be ſevered before the ſaid thirty firſt day of December following, ſhall in like manner be aſſets in the hands of his executor or adminiſtrator; but all ſuch emblements growing on the lands on that day, or at the time of the death of the teſtator or inteſtate, if that event happen after the thirty firſt day of December and before the firſt day of March, ſhall paſs with the land to the heir, deviſee, reverſioner or remainder man.

SECT. XLI. IF there be tenant for life of lands or ſlaves let or hired to another, at the death of ſuch tenant for life, if that event happen after the firſt day day of March, the leſſee, or perſon hiring ſhall hold the lands and ſlaves until the laſt day of December following, paying rent or hire to that time, and in the caſe of ſlaves delivering them well clothed.

SECT. XLII. THE rent of land or hire of ſlaves ſhall be apportioned between the executor or adminiſtrator of him who having a freehold, or other uncertain eſtate in the land, and the uſe for life or for other uncertain term in the ſlaves, ſhall die before the rent or hire become due, and him who ſhall ſucceed to the land, and

ſlaves, as heir, deviſee, or perſon in reverſion or remainder, unleſs, in the caſe of a deviſee, the contrary be directed by the teſtator.

SECT. XLIII. THE appointment of a debtor executor ſhall in no caſe be deemed an extinguiſhment of the debt unleſs it be ſo directed in the will.

SECT. XLIV. NO diſtribution ſhall be made of an inteſtate's eſtate until nine months after his death, nor ſhall an adminiſtrator be compelled to make diſtribution at any time, until bond and ſecurity be given by the perſon intitled to diſtribution, to refund due proportions of any debts or demands which may afterwards appear againſt the inteſtate, and the coſts attending the recovery of ſuch debts.

SECT. XLV. EXECUTORS and adminiſtrators ſhall be allowed in their accounts all reaſonable charges and diſburſements which they ſhall lay out and expend in the funeral of the deceaſed and other their adminiſtration; and in extraordinary caſes may be allowed ſuch recompence for their perſonal trouble, as the court, on paſſing their accounts, ſhall judge reaſonable.

SECT. XLVI. THE executors or adminiſtrators of a guardian, of a committee, or of any other perſon who ſhall have been chargeable with, or accountable for the eſtate of a ward, an ideot, or a lunatic, or the eſtate of a dead perſon committed to their teſtator or inteſtate by a court of record, ſhall pay ſo much as ſhall be due from their teſtator or inteſtate to the ward, ideot, or lunatic, or to the legatees or perſons intitled to diſtribution, before any proper debt of their teſtator or inteſtate.

SECT. XLVII. WHERE any perſon ſhall die ſeized of lands held for life of another, ſuch perſon may by his or her laſt will and teſtament, in writing, made and proved as is herein before directed for the deviſe of lands, deviſe all his intereſt in ſuch lands, which ſhall, if neceſſary, be aſſets in the hands of ſuch deviſee. And if no ſuch deviſe be made, ſuch lands for the reſidue of the term ſhall be aſſets in the hands of the heir, if it ſhall come to him by reaſon of a ſpecial occupancy, in the ſame manner as lands deſcending in fee ſimple, and if there ſhall be no ſpecial occupant, it ſhall go to the executors or adminiſtrators of the perſon ſo dying ſeized, and be aſſets in their hands, ſubject to debts, legacies and diſtribution.

SECT. XLVIII. EXECUTORS or adminiſtrators may ſue or be ſued upon all judgments, bonds or other ſpecialties, bills, notes or other writings of their teſtators or inteſtates, whether the executors or adminiſtrators be or be not named in ſuch inſtruments, and alſo upon all their perſonal contracts.

SECT. XLIX. ACTIONS of treſpaſs may be maintained by or againſt executors or adminiſtrators for any goods taken and carried away in the lifetime of the teſtator or inteſtate; and the damages recovered ſhall be in the one caſe for the the benefit of the eſtate, and in the other out of the aſſets.

SECT L. EXECUTORS of executors ſhall do and perform all things in the execution of the will of the firſt teſtator, which ſhall remain undone at the death of the firſt executor; and ſhall and may ſue or be ſued in all things reſpecting the eſtate, in the ſame manner as ſuch firſt executer could or might have ſued or been ſued.

SECT. LI. IF all the executors named in any laſt will ſhall refuſe to undertake the executorſhip, or being required to give ſecurity, ſhall refuſe to give, or be unable to procure the ſame, and no perſon will apply for adminiſtration with the will annexed: Or if no perſon will apply for adminiſtration of the goods and chattels of any inteſtate, it ſhall be lawful for the General Court, or county court having juriſdiction of ſuch probat or adminiſtration as herein before mentioned, after the expiration of three months from the death of the teſtator or inteſtate, to order the ſheriff of the county to take the eſtate into his poſſeſſion and make ſale of ſo much thereof, by public auction, as the payment of debts ſhall make neceſſary, or as ſhall be periſhable, or be directed by will to be ſold: And all ſales and conveyances, bona fide, made by the ſheriff, or his deputies, in conſequence of ſuch order, ſhall be as effectual to the purchaſers, as if they had been made by the teſtator or inteſtate in his lifetime. The eſtate ſhall be ſold upon ſuch credit as the court ſhall direct, and upon public notice previouſly given, the purchaſers giving bond and good ſecurity for payment according to the limited time of credit. The ſheriff may ſue, if neceſſary, for the recovery of debts, or of goods and chattels, and ſhall make a true and perfect inventory of the whole eſtate, and an account of ſales, and ſhall return the ſame, together with the bonds, to the court by whom he was ordered to ſell without delay, who ſhall firſt direct the payment of ſuch debts as ſhall be proved before them, and proportion the aſſets amongſt the creditors without regard to the dignity of debts, where there ſhall not be ſufficient to pay the whole; and then order the ſurplus, if any, to the legatees or next of kin to the decedent, according to the directions of the will or of this act. Whereupon the ſheriff, or deputy, ſhall aſſign the bonds and deliver the eſtate remaining unſold to the creditors, or others, according to ſuch order, retaining nevertheleſs his commiſſions, which ſhall be the ſame upon the eſtate by him ſold, as is allowed for goods taken in execution; and where the whole eſtate is not ſold, he ſhall moreover be allowed his reaſonable expences and diſburſements in the care of the part unſold.

SECT. LII. ALL ſales and conveyances of lands heretofore bona fide made by a ſheriff, under an order of court, where the lands had been deviſed to be ſold, and the executors had refuſed to act, are hereby confirmed and made effectual againſt all perſons claiming under the teſtator.

CHAP. XXII.

A BILL *for regulating Conveyances.*

SECTION I. BE it enacted by the General Aſſembly, that no eſtate of inheritance, or freehold, or for a term of more than five years, in lands or tenements, ſhall be conveyed from one to another, unleſs the conveyance be declared by writing, ſealed and delivered; nor ſhall ſuch conveyance be good againſt a purchaſer, for valuable conſideration, not having notice thereof, or any creditor, unleſs the ſame writing be acknowledged by him who ſhall have ſealed and delivered it, or be proved by three witneſſes, to be his act, before the General Court, or before the court of that county, in which the land conveyed, or ſome part thereof, lieth, or in the manner herein after directed, within eight months after the time of ſealing and delivering, and be lodged with the clerk of ſuch court, to be there recorded. No covenant or agreement, made in conſideration of marriage, ſhall be good againſt a purchaſer, for valuable conſideration, not having notice thereof, or any creditor, unleſs the ſame covenant or agreement be acknowledged by the party bound thereby, or be proved by three witneſſes, to be his act; if land be charged before the General Court, or the court of that county in which the land, or part thereof, lieth, or if perſonal eſtate only be ſettled or covenanted, or agreed to be paid or ſettled, before the court of that county, in which ſuch party ſhall dwell, or in the manner herein after directed, within eight months after the covenant or agreement made, and be lodged with the clerk of ſuch court, to be there recorded. If

the party, who ſhall ſign and ſeal any ſuch writing, reſide not in Virginia, the acknowledgement by ſuch party, or the proof by the number of witneſſes requiſite, of the ſealing and delivering of the writing, before any court of law, or the mayor, or other chief magiſtrate, of any city, town, or corporation, of the country in which the party ſhall dwell, certified by ſuch court, or mayor, or chief magiſtrate, in the manner ſuch acts are uſually authenticated by them, and offered to the proper court to be recorded, within eighteen months after the ſealing and delivering, ſhall be as effectual as if it had been in the laſt mentioned court. When huſband and wife ſhall have ſealed and delivered a writing, purporting to be a conveyance of any eſtate or intereſt, if ſhe appear in court, and, being examined, privily, and apart from her huſband, by one of the Judges thereof, ſhall declare to him, that ſhe did freely and willingly ſeal and deliver the ſaid writing, to be then ſhewn and explained to her, and wiſhes not to retract it, and ſhall, before the ſaid court, acknowledge the ſaid writing, again ſhewn to her, to be her act; or if before two Juſtices of the Peace of that county, in which ſhe dwelleth, if her dwelling be in America, who may be empowered by commiſſion, to be iſſued by the clerk of the court wherein the writing ought to be recorded, to examine her privily, and take her acknowledgement; the wife, being examined privily and apart from her huſband, by thoſe commiſſioners, ſhall declare, that ſhe willingly ſigned and ſealed the ſaid writing, to be then ſhewn and explained to her by them, and conſenteth, that it may be recorded, and the ſaid commiſſioners ſhall return, with the commiſſion, and thereunto annexed, a certificate, under their hands and ſeals, of ſuch privy examination by them, and of ſuch declaration made and conſent yielded by her; in either caſe the ſaid writing, acknowledged alſo by the huſband, or proved by witneſſes to be his act, and recorded, together with ſuch her privy examination and acknowledgement, before the court, or together with ſuch commiſſion and certificate, ſhall not only be ſufficient to convey or releaſe any right of dower, thereby intended to be conveyed or releaſed, but be as effectual, for every other purpoſe, as if ſhe were an unmarried woman. If the dwelling of the wife be not in America, the commiſſion, to examine her privily, and take her acknowledgement, ſhall be directed to any two Judges or Juſtices of any court of law, or to the mayor, or other chief magiſtrate, of any city, town, or corporation, of the country, in which the wife ſhall dwell, and may be executed by them, in the ſame manner as a commiſſion directed to two Juſtices, in America; and the certificate of the Judges or Juſtices of ſuch court, or the certificate of ſuch mayor or chief magiſtrate, authenticated in the form, and with the ſolemnity, by them uſed in other acts, ſhall be as effectual as the like certificate of the Juſtices in America. No part of the four years, next after the twelfth day of April, one thouſand ſeven hundred and ſeventy four, ſhall be accounted in the time, within which any deed or conveyance ought to be acknowledged or proved. The clerk of every court ſhall record all writings, acknowledged or proved before ſuch court, or certified to have been acknowledged, or proved, in manner before prescribed, together with the commiſſions for privily examining and taking the acknowledgements of married women, and all endorſements on ſuch writings, and plots, ſchedules, and other papers, thereto annexed, by entering them, word for word, in well bound books, to be carefully preſerved, and afterwards redeliver them to the parties intitled to them; and ſhall moreover make a docket of all ſuch writings, containing the dates thereof, and of the acknowledgments and probats, the names, ſurnames, and additions, of the parties thereto, in alphabetical order, and the quantities and ſituations of land, numbers and names of ſlaves, and deſcriptions of perſonal eſtate, conveyed thereby; and the clerk of every county court ſhall tranſmit ſuch docket, made by him, to the clerk of the General Court, in every March and October term, to be recorded by him. Every eſtate in lands or ſlaves, which on the day of in the year of our Lord one thouſand ſeven hundred and ſeventy ſix, was an eſtate in fee-tail, ſhall be deemed, from that time to have been, and, from thence forward, to continue, an eſtate in fee-ſimple; and every eſtate in lands, which ſince hath been limited, or hereafter ſhall be limited, ſo that, as the law aforetime was, ſuch eſtate would have been an eſtate-tail, ſhall alſo be deemed to have been, and to continue, an eſtate in fee-ſimple: And all eſtates, which, before the ſaid day of one thouſand ſeven hundred and ſeventy ſix, by the law, if it remained unaltered, would have been eſtates in fee-tail, and which, now, by virtue of this act, are and will be eſtates in fee-ſimple, ſhall, from that time, and henceforth, be diſcharged of the conditions annexed thereto by the common law, reſtraining alienations before the donee ſhould have iſſues; ſo that the donees, or perſons, in whom the conditional fees veſted, or ſhall veſt, had, and ſhall have, the ſame power over the ſame eſtates, as if they were pure and abſolute fees. Every eſtate in lands, which ſhall hereafter be granted, conveyed, or deviſed to one, although other words, heretofore neceſſary to transfer an eſtate of inheritance, be not added, ſhall be deemed a fee-ſimple; if a leſs eſtate be not limited, by expreſs words, or do not appear to have been granted, conveyed, or deviſed, by conſtruction, or operation of law. Where an eſtate hath been, or ſhall be, by any conveyance limited, in remainder, to the ſon or daughter, or to the uſe of the ſon or daughter, of any perſon, to be begotten, ſuch ſon or daughter, born after the deceaſe of his or her father, ſhall take the eſtate, in the ſame manner, as if he or ſhe had been born in the lifetime of the father, although no eſtate ſhall have been conveyed to ſupport the contingent remainder after his death. By deed of bargain and ſale, or by deeds of leaſe and releaſe, or by covenant to ſtand ſeized to uſe, or deed operating by way of covenant to ſtand ſeized to uſe, the poſſeſſion of the bargainer, releaſer, or covenanter, ſhall be deemed heretofore to have been, and hereafter to be tranſfered to the bargainee, releſſee, or perſon intitled to the uſe, for the eſtate or intereſt which ſuch perſon hath, or ſhall have in the uſe, as perfectly, as if ſuch bargainee, releſſee, or perſon intitled to the uſe, had been enfeoffed with livery of ſeiſin, of the land, intended to be conveyed by ſuch deed or covenant. Eſtates of every kind, holden or poſſeſſed in truſt, ſhall be ſubject to like debts and charges of the perſons, to whoſe uſe, or for whoſe benefit, they were, or ſhall be, reſpectively, holden or poſſeſſed, as they would have been ſubject to, if thoſe perſons had owned the like intereſt in the things holden or poſſeſſed, as they own or ſhall own in the uſes or truſts thereof. Where any perſon, to whoſe uſe, or in truſt for whoſe benefit, another is or ſhall be ſeized of lands, tenements, or hereditaments, hath, or ſhall have, ſuch inheritance in the uſe or truſt, as that, if it had been a legal right, the huſband or wife of ſuch perſon would thereof have been intitled to curteſy or dower, ſuch huſband or wife ſhall have and hold, and may by the remedy proper in ſimilar caſes, recover curteſy or dower of ſuch lands, tenements, or hereditaments. Grants of rents, or of reverſions, or remainders, ſhall be good and effectual, without attornments of the tenants; but no tenant, who, before notice of the grant, ſhall have paid the rent to the grantor, ſhall ſuffer any damage thereby. The attornment of a tenant, to any ſtranger, ſhall be void, unleſs it be, with conſent of the landlord of ſuch tenant, or purſuant to, or in conſequence of the judgement of a court of law, or the order or decree of a court of equity.

CHAP. XXIII.

A BILL *ſecuring the rights derived from grants to Aliens.*

SECTION I. BE it enacted by the General Aſſembly, that thoſe citizens who heretofore were aliens, and had not been naturalized, ſhall be deemed to have been able to hold the lands, tenements, or hereditaments granted to them by the crown, or conveyed to them by others, ſo that all who deriving the rights and titles they claim under ſuch

grants or conveyances, either by color of hereditary ſucceſſion or by purchaſe, are with good faith and by lawful means in poſſeſſion of ſuch lands, tenements, or hereditaments, ſhall, and may continue to hold, or who being out of poſſeſſion had been deforced by wrong, or kept out by fraud, may recover the ſame lands, tenements, or hereditaments, in like manner, and by like remedies, as they might have held or recovered the ſame if they, to whom the grants or conveyances were made, had been citizens of the commonwealth, or had been ſuch as were formerly called natural born ſubjects.

CHAP. XXIV.

A BILL concerning Eſcheators.

SECTION I. BE it enacted by the General Aſſembly, that there ſhall be one eſcheator commiſſioned in every county, by the Governor on recommendation from the court of the ſame county, who ſhall execute his office in proper perſon, and not by deputy, and ſhall, before the court of the county, be bound in the penalty of 1000l. with ſecurity to be approved by the ſame court, duly to perform the duties of his ſaid office.

SECT. II. THE ſaid eſcheator ſhall ſit in convenient and open places, and ſhall take his inqueſts of fit perſons, who ſhall be returned and empanelled by the ſheriff of the county, and ſhall ſuffer every perſon to give evidence, openly, in their preſence, to ſuch inqueſt; and the ſaid inquiſition, ſo taken, ſhall be, by indentures to be made between the ſaid eſcheator and them of the inqueſt, whereof the counterpart, ſealed by the eſcheator, ſhall remain in the poſſeſſion of the firſt perſon that ſhall be ſworn in the ſaid jury, and by him ſhall be returned to the court of the ſame county there to be recorded; and the other part, ſealed by the jurors, ſhall, by the eſcheator, be ſent into the General Court within one month after the inqueſt taken. And if it be found for the commonwealth, and there ſhall be any man that will make claim to the lands he ſhall be heard without delay on a traverſe to the office, monſtrans de droit or petition of right; and the ſaid lands, or tenements, ſhall be committed to him, if he, ſhew good evidence of his right and title to hold, until the right ſhall be found and diſcuſſed for the commonwealth or for the party, finding ſufficient ſurety to proſecute his ſuit with effect, and to render and pay to the commonwealth the yearly value of the lands, if the right be diſcuſſed for the commonwealth.

SECT. III. NO lands nor tenements, ſeized into the hands of this commonwealth upon ſuch inqueſts taken before eſcheators, ſhall be in any wiſe granted, nor to farm let, to any, if it be not to him or them which claim as is aforeſaid, till the ſame inqueſts and verdicts be fully returned into the General Court, nor within ſix months after the ſame return, but ſhall intirely and continually remain in the hands of the eſcheators, who ſhall anſwer to the commonwealth the iſſues and profits yearly coming of the ſaid lands and tenements, without doing waſte or deſtruction.

SECT. IV. IF no perſon, within the ſix months before mentioned, make claim to the lands or tenements ſo ſeized, or claim being ſo made, if it be found and diſcuſſed for the commonwealth, the clerk of the General Court, ſhall, within one month thereafter, certify to the eſcheator of the county, wherein the lands lie, that no claim hath been made, or that being made, it hath been diſcuſſed for the commonwealth, which eſcheator ſhall thereupon proceed to make ſale of the land, for the benefit of the commonwealth, to him who will give the moſt, after one month's public notice of the time and place of doing the ſame, and ſhall certify the purchaſer and price to the Regiſter of the Land-Office, who, on receiving a certificate that ſuch price hath been paid into the treaſury, ſhall have a grant executed to the purchaſer in ſuch manner as by law directed in the caſe of unappropriated lands.

SECT. V. WHERE any perſon holds lands, or tenements, for term of years, or hath any rent, common, office, fee, or other profit apprender of any eſtate of freehold, or for years, or otherwiſe out of ſuch lands or tenements which ſhall not be found in ſuch office or inquiſition, ſuch perſon ſhall hold and enjoy his leaſe, intereſt, rent, common, office, fee and profit apprender in manner as if no ſuch office or inquiſition had been found, or as if ſuch leaſe, intereſt, rent, common, office, or profit apprender had been found in ſuch inquiſition. Alſo if one perſon or more be found heir by office or inquiſition, in one county, and another perſon be found heir to the ſame perſon, in another county, or if any perſon be untruly found lunatic, ideot, or dead, or where it ſhall be untruly found that any perſon attainted of treaſon, or felony, is ſeized of any lands, tenements, or hereditaments, at the time of ſuch treaſon or felony committed, or at any time after, whereunto any other perſon hath any juſt title or intereſt of any eſtate of freehold, the perſon grieved by ſuch office or inquiſition may have his traverſe or monſtrans de droit to the ſame, without being driven to any petition of right and proceed to trial therein, and have like remedy and reſtitution upon his title found or judged for him therein, as in other caſes of traverſe upon untrue inquiſition found.

CHAP. XXV.

A BILL to prevent Frauds and Perjuries.

SECTION. I. BE it enacted by the General Aſſembly, that no action ſhall be brought, whereby to charge any executor or adminiſtrator upon any ſpecial promiſe, to anſwer any debt or damages out of his own eſtate; or whereby to charge the defendant upon any ſpecial promiſe to anſwer for the debt, default or miſcarriage of another perſon, or to charge any perſon upon any agreement made upon conſideration of marriage; or upon any contract for the ſale of lands, tenements or hereditaments, or the making any leaſe thereof for a longer term than one year; or upon any agreement which is not to be performed within the ſpace of one year from the making thereof, unleſs the promiſe or agreement, upon which ſuch action ſhall be brought, or ſome memorandum or note thereof, ſhall be in writing, and ſigned by the party to be charged therewith, or ſome other perſon by him thereunto lawfully authoriſed.

SECT. II. EVERY gift, grant, or conveyance of lands, tenements, hereditaments, goods or chattels, or of any rent, common or profit out of the ſame, by writing or otherwiſe, and every bond, ſuit, judgment or execution, had or made, and contrived of malice, fraud, covin, colluſion, or guile, to the intent or purpoſe to delay, hinder or defraud creditors of their juſt and lawful actions, ſuits, debts, accounts, damages, penalties, or forfeitures, or to defraud or deceive thoſe who ſhall purchaſe the ſame lands, tenements or hereditaments, or any rent, profit or commodity out of them, ſhall be from henceforth deemed and taken (only as againſt the

perſon or perſons, his, her, or their heirs, ſucceſſors, executors, adminiſtrators, or aſſigns, and every of them whoſe debts, ſuits, demands, eſtates or intereſts, by ſuch guileful and covinous devices and practices, as is aforeſaid, ſhall or might be in any wiſe diſturbed, hindered, delayed or defrauded) to be clearly and utterly void, any pretence, color, feigned conſideration, expreſſing of uſe, or any other matter or thing to the contrary notwithſtanding. And moreover if a conveyance be of goods and chattles, and be not on conſideration deemed valuable in law, it ſhall be taken to be fraudulent within this act, unleſs the ſame be by will duly proved and recorded, or by deed in writing acknowledged or proved, if the ſame deed include lands alſo, in ſuch manner as conveyances of land are by law directed to be acknowledged or proved, or if it be of goods and chattels only, then acknowledged or proved by two witneſſes in the General Court or court of the county wherein one of the parties live, within eight months after the execution thereof; or unleſs poſſeſſion ſhall really and bona fide remain with the donee. And in like manner where any loan of goods and chattels ſhall be pretended to have been made to any perſon with whom, or thoſe claiming under him, poſſeſſion ſhall have remained by the ſpace of five years, without demand made and purſued by due proceſs at law on the part of the pretended lender, or where any reſervation or limitation ſhall be pretended to have been made of a uſe or property by way of condition, reverſion, remainder or otherwiſe, in goods and chattels. the poſſeſſion whereof ſhall have remained in another as aforeſaid, the ſame ſhall be taken, as to the creditors and purchaſers of the perſons aforeſaid ſo remaining in poſſeſſion, to be fraudelent within this act, and that the abſolute property is with the poſſeſſion; unleſs ſuch loan, reſervation or limitation of uſe or property were declared by will or by deed in writing proved and recorded as aforeſaid.

SECT. III. THIS act ſhall not extend to any eſtate or intereſt in any lands, goods, or chattels, or any rents common or profit out of the ſame, which ſhall be upon good conſideration and bona fide, lawfully conveyed or aſſured to any perſon or perſons, bodies politic or corporate.

CHAP. XXVI.

A BILL of Mortmain.

SECTION I. BE it enacted by the General Aſſembly that no perſon preſume to convey by deed, will, or otherwiſe any lands or ſlaves, or the uſe of them, or under the color of any ſuch conveyance to receive of any man, or by any other craft or ingenuity to appropriate to himſelf any lands or ſlaves, or the uſe of them, whereby ſuch lands or ſlaves, or the uſe thereof may any wiſe come into mortmain. And if any body politic do implead any and the party impleaded maketh default, whereby he ought to loſe the lands or ſlaves after the default made, it ſhall be enquired by the country whether the plaintiff had right in the thing demanded or no; and if it be found that the plaintiff had right in his demand, the judgment ſhall paſs with him, and he ſhall recover; and if he hath no right it ſhall be taken to be amortiſed.

SECT. II. AND in all theſe caſes the thing amortiſed ſhall incur, the one moiety to the commonwealth, and the other moiety to him who will demand the ſame with good faith, as well for himſelf as for the commonwealth, or the whole ſhall incur to the commonwealth if it be firſt demanded on that behalf.

CHAP. XXVII.

A BILL concerning the Dower and Jointures of Widows.

SECTION I. BE it enacted by the General Aſſembly, that a widow after the death of her huſband, ſhall tarry in the manſion houſe of her huſband and the plantation thereto belonging, rent free, until her dower ſhall be aſſigned her. And if ſhe be thereof in the meantime deforced, ſhe ſhall have a vicontiel writ in the nature of the writ de quarentinâ habendâ, directed to the ſheriff, whereupon ſuch proceedings and ſpeed ſhall be uſed as hath or might have been uſed on the ſaid writ of quarentine.

SECT. II. WHOSOEVER ſhall deforce widows of their dowers of the lands whereof their huſbands died ſeized, or of ſuch manſion-houſe or plantation, if the ſame widows after ſhall recover by plea, they that be convicted of ſuch wrongful deforcement ſhall yeild damages to the ſame widows, that is to ſay, the value of the whole dower to them belonging from the time of the death of their huſbands unto the day that the ſaid widows by judgment have recovered ſeiſin of their dower.

SECT. III. IN a writ of dower called 'unde nihil habet' the writ ſhall not abate by the exception of the tenant, becauſe the demandant hath received her dower of another man before her writ purchaſed, unleſs he can ſhew that the dower, ſo received, was in ſatisfaction of her right of dower in the lands whereof ſhe demands dower.

SECT. IV. IN caſe where the huſband being impleaded for land by default, the woman after his death demanding her dower ſhall be heard. And if it be alledged againſt her that her huſband loſt the land whereof the dower is demanded, by judgment, whereby ſhe ought not to have dower, and then it be enquired by what judgment, and it be found that it was by default, whereupon the tenant muſt anſwer, then it behoveth the tenant to anſwer further, and to ſhew that he had right and hath in the foreſaid land according to the form of the writ, that the tenant before purchaſed againſt the huſband: And if he can ſhew that the huſband of ſuch wife had no right in the lands, nor any other but he that holdeth them, the tenant ſhall go quit, and the wife ſhall recover nothing of her dower; which thing if he cannot ſhew, the wife ſhall recover her dower.

SECT. V. AND where ſometime it chanceth that a woman not having a right to demand dower, the heir being within age, doth purchaſe a writ of dower againſt a guardian, and the guardian endoweth the woman by favor, or maketh default, or by colluſion defendeth the plea ſo faintly, whereby the woman is awarded her dower, in prejudice of the heir, it is provided that the heir, when he cometh to full age, ſhall have an action to demand the ſeiſen of his anceſtor againſt ſuch a woman, like as he ſhould have againſt any other deforcer. Yet ſo that the woman ſhall have her exception ſaved againſt the demandant, to ſhew that ſhe had right to her dower, which if ſhe can ſhew, ſhe ſhall go quit and retain her dower, and if not the heir ſhall recover his demand. In like manner the woman ſhall be aided if the heir or any other do implead her for her dower, if ſhe loſe her dower by default, in which caſe the default ſhall not be ſo prejudicial to her, but that ſhe ſhall recover her dower, if ſhe have right thereto, and ſhe ſhall have this writ. "Command A. that "juſtly, &c. he render to B. who was the wife of F. ſo much land with the appurtenances in C. which ſhe "claims to be her reaſonable dower, or of her reaſonable dower, and that the aforeſaid A. deforceth her &c."

and to this writ the tenant ſhall have his exception, to ſhew that ſhe had no right to be endowed; which if he can verify, he ſhall go quit, if not, the woman ſhall recover the land whereof ſhe was endowed before.

SECT. VI. ALSO widows may bequeath the crop of their ground as well of their dowers as of other their lands and tenements.

SECT. VII. BUT if a wife willingly leave her huſband and go away and continue with her adulterer, ſhe ſhall be barred forever of action to demand her dower that ſhe ought to have of her huſband's lands, if ſhe be convict thereupon, except that her huſband willingly and without coercion reconcile her and ſuffer her to dwell with him, in which caſe ſhe ſhall be reſtored to her action.

SECT. VIII. ALSO if any eſtate be conveyed by deed or will, either expreſſly or by averment, for the jointure of the wife, in lieu of her dower, to take effect in her own poſſeſſion immediately on the death of her huſband, and to continue during her life at the leaſt, determinable by ſuch acts only as would forfeit her dower at the common law, ſuch conveyance ſhall bar her dower of the reſidue of the lands, tenements or hereditaments which at any time were her ſaid huſband's.

SECT. IX. BUT if the ſaid conveyance were before the marriage and during the infancy of the feme, and the guardian hath not expreſſed his approbation thereof by becoming a party to the ſame conveyance, or if it were made after the marriage, in either caſe the widow may, at her election, wave ſuch jointure and demand her dower.

SECT. X. WHEN any conveyance intended to be in lieu of dower, ſhall, through any defect, fail to be a legal bar thereto, and the widow, availing herſelf of ſuch defect, ſhall demand her dower, the eſtate and intereſt conveyed to ſuch widow with intention to bar her dower ſhall thereupon ceaſe and determine.

SECT. XI. IF a widow be lawfully expulſed or evicted from her jointure, or any part thereof, without any fraud or covin, by lawful entry or action, ſhe ſhall be endowed of as much of the reſidue of her huſband's lands, tenements, or hereditaments, whereof ſhe was before dowable, as the ſame lands, tenements, or hereditaments, ſo evicted and expulſed ſhall amount or extend unto.

CHAP. XXVIII.

A BILL *for the preſervation of the eſtates of Ideots and Lunatics.*

SECTION I. BE it enacted by the General Aſſembly that the lands, tenements and chattels, of ideots and lunatics, ſhall be ſafely kept without waſte and deſtruction, and they and their houſhold ſhall live and be maintained competently with the profits of the ſame, and the reſidue, beſides their ſuſtentation, ſhall be kept for their uſe, to be delivered unto them when they come to right mind: And if they die in ſuch eſtate their lands ſhall be rendered to the right heirs and their chattels be diſtributed.

CHAP. XXIX

A BILL *providing that wrongful alienations of Lands ſhall be void ſo far as they be wrongful.*

SECTION I. BE it enacted by the General Aſſembly, that all alienations and warranties of lands, tenements and hereditaments made by any purporting to paſs or aſſure a greater right or eſtate than ſuch perſon may lawfully paſs or aſſure, ſhall operate as alienations or warranties of ſo much of the right and eſtate in ſuch lands, tenements, or hereditaments as ſuch perſon might lawfully convey; but ſhall not paſs or bar the reſidue of the ſaid right or eſtate purported to be conveyed or aſſured.

SECT. II. BUT if the deed of the alienor doth mention that he and his heirs be bound to warranty, and if any heritage deſcend to the demandant of the ſide of the alienor, then he ſhall be barred for the value of the heritage that is to him deſcended. And if in time after any heritage deſcend to him by the ſame alienor, then ſhall the tenant recover againſt him of the ſeiſin warranted by a judical writ, that ſhall iſſue out of the rolls of the Juſtices, before whom the plea was pleaded; to reſummon his warranty, as before hath been done in caſes where the warrantor cometh into the court, ſaying, that nothing deſcended from him by whoſe deed he is vouched.

CHAP. XXX.

A BILL *for amending an Act, intitled, "An Act for raiſing a ſupply of Money for Public exigencies."*

SECTION I. BE it enacted by the General Aſſembly, that ſo much of one act paſſed in the the year of our Lord 1777, and intitled, "An act for raiſing a ſupply of money for public exigencies," as directs that during the continuance thereof, the freeholders and houſe-keepers ſhall meet together and chuſe commiſſioners of the tax for their county, and that the ſaid commiſſioners of the tax ſhall lay off their county, city, or borough, into hundreds, ſhall be repealed, and that the Aldermen to be choſen annually by direction of one act of this preſent General Aſſembly, intitled "An act for the more general diffuſion of knowledge," ſhall perform the duties heretofore required of the ſaid commiſſioners of the tax, and ſhall have the ſame powers, be liable to the ſame penalties, and to all intents and purpoſes, as well of the before-mentioned act as of any other, ſtand in the place of the ſaid commiſſioners.

CHAP. XXXI.

A BILL *for levying County rates.*

SECTION I. BE it enacted by the General Aſſembly, that the Juſtices of every county, at ſome court, to be held for their county, between the laſt day of April and ſecond Tueſday in July, in every year, ſhall make up in their minutes an account of all expences incurred by the ſaid court, under authority of law, and remaining unpaid, ſtating therein the ſums due, for what, and to whom due, and all credits owing to the ſaid county, and certify the balance to the Aldermen of their county. The ſaid Aldermen ſhall meet together, at the court-houſe of their county, at ſome time between the ſaid ſecond

Tuesday in July, and the first day of August next following, and by taxation of the persons and property in their county, according to the mode of assessment prescribed by the law which shall then be in force for raising money for the public exigencies, shall make provision for raising the said balance, and shall, on or before the said first day of August, deliver to the collector of the public taxes, a list of the persons chargeable with the county rate, and the sum to be paid by each for his county rate; and also a list of the credits owing to them on behalf of their county, and of the persons from whom due: Which collector shall give bond with responsible security for the discharge of his duty herein, and shall collect the credits and county rates in the same time, and with the same powers, for the same commission, and subject to the same fines, forfeitures, and prosecutions, as in the case of public taxes. The said court shall also, before the said first day of August annually, deliver to the said collector a copy of such their account, who shall proceed, so soon as his collection shall have enabled him to pay off the demands of the several creditors therein stated. And if he shall fail so to do, and also to settle his accounts with the court of his said county, on or before the first day of November following, it shall be lawful for the said court, on the motion of any creditor unpaid, ten days previous notice of such motion having been given, to render judgment against such collector for the amount of the claim and costs; or if the failure were to account, then of their own motion to render such judgment or judgments as are usual in actions on writs of account, and thereon to award execution, unless the claim shall not exceed twenty five shillings, in which case it shall be determinable before a Justice of the Peace in like manner.

CHAP. XXXII.

A BILL *for support of the Poor.*

SECTION I. BE it enacted by the General Assembly, that the Aldermen of every county wherein such provision, as is herein after required for setting the poor of the county to work, shall not have been made, shall, so soon as conveniently may be, purchase the inheritance, or procure a lease, of one hundred acres of land, or any less quantity that is sufficient for the purpose intended, in the county, and thereon cause a house to be built, if a proper one be not there already, and kept in repair, and shall cause all persons in their county, who are maintained thereby, or who seek relief therefrom, to be put into such house, to be there maintained and employed in such work as they shall be able to perform; and may also, by their warrant, apprehend and send to the same place all persons found wandering and begging alms, in the county, other than seamen, who having been shipwrecked or discharged from vessels they had belonged to, and returning to their habitations, or going to some port to seek employment, and not loitering on the way thither, or abiding in port and offering to be employed, shall ask subsistance on their journey, or until any be willing to employ them, and shall put such beggar to work for any time not exceeding twenty days. And the said Aldermen shall hire some discreet man to oversee those who shall come or be put into such work-house, and shall, from time to time, ordain rules for his conduct, and for the government, employment, and correction of the persons subject to him, restraining him from correcting any of them with more stripes than ten, at one time, or for one offence. And in order to keep them at work shall provide wool, cotton, flax, hemp and other materials, with the tools and implements necessary for the manufacture thereof. And the said Aldermen shall meet together, at the court-house of their county, at some time between the second Tuesday in July and the first day of August in every year, and by taxation of the persons and property, in their county, according to the mode of assessment prescribed by the law which shall be then in force, for raising money for the public exigences, shall raise competent sums of money for the necessary relief of such poor, lame, impotent, blind, and other inhabitants of the county as are not able to maintain themselves. And also for the putting out the poor children apprentices, as well as for defraying the expences of putting so much of this act in execution as relates to setting the poor to work and keeping them so employed; they shall moreover on or before the first day of August annually, make up in their minutes an exact account of the persons to, and for whom, such monies are to be paid, the purposes for which and the particular sums; a copy of which they shall, on or before the same day, deliver to the collector of the public tax, together with a list of the persons chargeable with the poor rates, and the sums to be paid by each for his poor rate, and also a list of the debts due to them on behalf of their county: which collector shall give bond with responsible security for the discharge of his duty herein; and shall collect the said debts and poor rates in the same time, with the same powers, for the same commission, and subject to the same fines, forfeitures, and prosecutions as in the case of public taxes. The said collector shall proceed, so soon as his collection shall have enabled him, to pay the several sums as shall be specially directed in the account rendered him: and if he shall fail so to do, and also to settle his account with the Aldermen, on or before the first day of November following, it shall be lawful for the court of the county, on the motion of the said Aldermen, or of the person to whom any sum of money is directed to be paid, ten days previous notice of such motion having been given, to render judgment against such collector for the sum and costs; or if it be for failure to account, then to render such judgment or judgments as are usual in actions on writs of account, and thereon to award execution, unless the sum shall not exceed twenty five shillings, in which case it shall be determinable before a Justice of the Peace, in like manner. And at such annual meeting, and at other times when they shall think proper, the said Aldermen shall cause the overseer of the poor to render account of the persons under his care, the produce of their labor, and the disposition of such produce, and of all other things committed to his care, or belonging to his office, and apply the profits arising from their work towards defraying the expences of their maintenance. The Aldermen shall register in a book, to be provided at the expence of the county, and transmitted to their successors, the names of all persons who receive relief from the county, entering the times they were admitted, and stating the reasons of their admissions. When a person shall have resided twelve months in a county, without any intermediate change of habitation, such residence shall be deemed a settlement in that county, of such person, and those of his children who remain a part of his family. A bastard child shall be deemed a settled inhabitant of that county in which, at the birth, the mother was settled. Any person acknowledged by the Aldermen of a county to be a settled inhabitant thereof, producing a certificate of such acknowledgement, signed by the said Aldermen, and delivering the certificate to the Aldermen of another county, wherein he shall not have such leasehold, or greater estate as is herein after mentioned, shall be adjudged to continue a settled inhabitant of the former county, which shall reimburse all expences incurred by the latter, for his maintenance, or curing, or attempting to cure him of any disease he may labor under, to be recovered, in case of refusal to repay them, in an action on the case, brought by the Aldermen of one county against those of the other. A widow shall be adjudged a settled inhabitant of that county in which her husband shall have gained a settlement, although his death happen before she shall have resided there twelve months: But if he had no settlement any where, she shall be considered with respect to her settlement as if she were an unmarried woman. A person holding any estate of freehold, in lands or possessing an estate, for one or more years, in lands, and coming to dwell in the county

wherein ſuch lands lie, ſhall have the ſame right to remain there as if he had been a ſettled inhabitant thereof. When a ſettled inhabitant of any county, or one who according to this act is deemed ſuch, ſhall leave it, and the Aldermen, or any two of them, in any other county, in which he ſhall come to dwell, or abide, if he have not therein ſuch eſtate as aforeſaid, or do not give ſecurity to indemnify the county, and ſhall be apprehenſive he will become chargeable to their county, they may, by their warrant, cauſe ſuch emigrant to be removed to the county whereof he was a ſettled inhabitant, and delivered to one of the Aldermen thereof; and if he be unable to travel immediately, the Alderman who ſigned the warrant, ſhall, at the charge of their county, provide for his maintenance and cure, until he ſhall recover ſtrength and health ſufficient for the journey, the expence of which removal ſhall be reimburſed, and may be recovered in the ſame manner as thoſe of the maintenance and cure are before directed to be. Any Alderman refuſing to receive a ſettled pariſhoner, ſo removed, ſhall be himſelf anſwerable for his maintenance and cure, in like manner as his county is declared to be. All able bodied perſons not having wherewithal to maintain themſelves, who ſhall waſte their time in idle and diſſolute courſes, or ſhall loiter or wander abroad, refuſing to work for reaſonable wages, or to betake themſelves to ſome honeſt and lawful calling, or who ſhall deſert wives or children, without ſo providing for them as that they ſhall not become chargeable to a county, ſhall be deemed vagabonds, and ſhall be ſent, by order of an Alderman, to the poor houſe, there to be kept to labor during ſuch time as ſhall be limited by the order, not exceeding thirty days; or if he be a ſettled inhabitant of another county, ſhall, by warrant of the ſaid Alderman, be conveyed, by conſtable to conſtable, to ſome Alderman of ſuch other county, who ſhall, by his order, ſend him to the proper poor houſe, to be there kept to labor as aforeſaid; unleſs, in either of the caſes, the vagabond ſhall give ſurety for his good behavior, and that he ſhall betake himſelf to ſome honeſt and lawful calling for twelve months; from which order the party thereby condemned may appeal to the county court, who, if the order be affirmed, ſhall award him to pay the coſts. The aſſeſſors of the ſeveral hundreds, in every county, ſhall be aiding and aſſiſting to their Aldermen, in the execution of this act, by giving information of ſuch perſons, within their reſpective hundreds, as ought to be ſupported by the county; and of theſe who ſhall come from any other county where they had a ſettled reſidence, to dwell within their hundred, and be likely to become chargeable, by apprehending, and carrying before the ſaid Aldermen, any perſon found wandering or begging within their hundred, or coming within the deſcription of a vagabond before given; and by diſpenſing, according to the inſtructions of the ſaid Aldermen, any reliefs which may, by them, be depoſited with ſuch aſſeſſors for the uſe of the poor of their hundred. The Aldermen of every county and their ſucceſſors ſhall have power to call upon the former veſtrymen of any pariſh which, or any part of which, is within their county, to render account of the expenditure of all money, or tobacco, by them received, and to pay into their hands any balance, or their due proportion of any balance, which may remain, to be applied to the leſſening of the poor rates, and on failure may maintain proper actions in law, or equity, againſt them for enforcing the ſame.

CHAP. XXXIII.

A BILL for aſcertaining the Salaries and Fees of certain Officers.

SECTION I. BE it enacted by the General Aſſembly, that the ſalaries and fees, aſcertained by the table hereunto annexed, ſhall be paid to the officers therein mentioned, the ſalaries out of the public treaſury, and the fees by the perſons for whom the ſervices, oppoſite to which the fees are extended, ſhall be reſpectively performed. The clerk, or regiſter, of every court, ſhall, within ſix months after the commencement of this act, ſet up, and continually afterwards keep, one fair and correct copy of the ſaid table, or ſo much thereof as concerns the officers of ſuch court, in ſome part of the room the court ſhall ſit in, and another in his own office, viſible to perſons reſorting thither; and if he omit this, he ſhall be amerced. Before one ſhall be compellable to pay any ſuch of the ſaid fees, as by virtue of this act diſtreſs may be made for, an account thereof ſhall be produced and delivered to him, ſigned by the officer, ſpecifying diſtinctly every article, in words at length, with the particular fee charged for it. Such account of a ſurveyor, clerk, regiſter, ſheriff or marſhall being put into the hands of that ſheriff, in whoſe county the debtor dwelleth, or the ſervices ſhall have been performed, before the twentieth day of January, the ſaid ſheriff ſhall collect the fees ſo charged; and, if, when they ſhall have been demanded by him, they be not paid before the tenth day of April then next following, he ſhall diſtrain ſufficient of the debtor's goods, and ſell them in the ſame manner as goods taken in execution by writ of fieri facias, to diſcharge the ſaid account; and he may retain, to his own uſe, a proportion, equal to ſix in the hundred, of the fees ſo collected or levied by him: And if he refuſe, or neglect, to account for, or pay, the balance, before the laſt day of May, then next following, to the officer intitled to it; or, if he dwell in another county, to ſuch agent as he ſhall empower to receive it, ſuch officer may recover the ſame, with damages, to be aſſeſſed by a jury, and coſts, againſt the ſheriff, or his repreſentative, by motion to the court of that county whereof he is or was a ſheriff; or, if the officer be clerk of the High Court of Chancery, or General Court, or regiſter of the Court of Admiralty, either to the General Court, or the ſaid county court, ten days notice having been given to the defendant of the time when ſuch motion would be made: And upon a judgment in ſuch motion, the plaintiff may ſue out the like execution as may be taken out upon a judgment in an action for debt or damages; and if the execution be a fieri facias, the clerk iſſuing it ſhall endorſe thereon "that no ſecurity ſhall be taken," which the officer it ſhall be directed to ſhall obey. No ſuit to recover any ſuch fees, for which diſtreſs may be made, ſhall be maintained before the account thereof ſhall have been put into the hands of ſuch ſheriff, as aforeſaid, and he ſhall have made a return thereupon, that the debtor had no goods whereof he could make diſtreſs in his bailiwic, unleſs the books of the office ſhall have been deſtroyed by fire, or ſome other accident. No office copy taken out by or for either party, of a writing filed on behalf of himſelf, if he recover coſts, ſhall be taxed, in the bill of coſts, againſt his adverſary, nor ſhall more than one fee be charged for entering the attornies on each ſide in any ſuit. If an officer, for whoſe fees diſtreſs may be made, exact or take a greater fee than what is allowed by this act, or take any fee for ſervice not performed, he ſhall make amends, to the party injured, by payment of times ſo much as the fee exacted or taken ſhall exceed the legal fee, or as the fee unearned ſhall amount to, and may, nevertheleſs, be criminally proſecuted for the extortion.

TABLE mentioned and referred to in the Act for aſcertaining the Salaries and Fees of certain Officers.

Officers. Their ſalaries by the year, and after that rate for a leſs time, in pounds of current money.

Governor.

Members of the Privy Council. To be diſtributed amongſt them in proportion to the numbers of days they ſhall reſpectively attend, or, being in the proper place for that purpoſe, ſhall be hindered by ſickneſs from attending, the Board.

Every Member of the American Congreſs.

	pounds	shillings	pence	of current money, or if the debtor chuſe it, pounds of tobacco
OFFICERS.				
Speaker of the Senate, beſides daily wages in ſeſſion				
Speaker of the Houſe of Delegates, beſides daily wages in ſeſſion.				
Public Treaſurer.				
Each of the Auditors for Public Accounts.				
Commiſſioners of the Navy, to be diſtributed amongſt them in like proportion as the ſalary to Members of the Privy Council.				
Clerk of the Privy Council.				
Clerk of the Auditors for Public Accounts.				
Clerk aſſiſtant of the ſame.				
Clerk of the Commiſſioners of the Navy.				
Clerk aſſiſtant of the ſame.				
Every Judge of the High Court of Chancery, General Court, and Court of Admiralty.				
Clerk of the High Court of Chancery, beſides his fees.				
for ſervices performed.				
fees				
Clerk of the court of appeals, equity, or common law, and regiſter of the court of admiralty.				
For recording the acknowledgement or probate of a conveyance or other deed.				
For a dedimus poteſtatem to take the acknowledgement of a married woman, party to a conveyance.				
For recording the return of commiſſioners impowered to take ſuch acknowledgement.				
For recording the probate of a teſtament, or laſt will.				
For a commiſſion of adminiſtration.				
For entering a ſuit in a docket, to be charged once only.				
For a ſubpœna, writ, ſummons, citation, or other proceſs, orignal, meſne, or judical, in any caſe civil or criminal.				
For entering the return of ſuch proceſs.				
For a petition to recover a demand of leſs value than five pounds, with a copy of the writing, ſpecifying the demand, and the ſummons thereupon.				
For entering the appearance of either party in a ſuit, perſonally, or by attorney, or proctor, to be charged once only.				
For entering a warrant of attorney.				
For filing a bail-bond for appearance.				
For entering a recognizance of ſpecial bail in court, or taken in the country.				
For entering the undertaking of one becoming bound for another, as ſurety for payment of coſts.				
For filing a bill, declaration, libel, claim, petition and appeal, anſwer, plea, demurrer, replication, rejoinder, or other pleading or written allegation of either party, in any ſuit.				
For filing papers intended as exhibits in ſuch ſuit.				
For a dedimus poteſtatem to take the examinations of witneſſes.				
For filing the return thereof.				
For every rule given in court or in the office.				
For every order of court in any ſuit.				
For entering the continuance of a ſuit by ſpecial order of the court.				
For every thing done, during a trial by jury, from the calling, till the diſcharging them.				
For entering a decree, judgment, or ſentence, interlocutory or final.				
For taxing coſts.				
For a bond given by an executor, or adminiſtrator, or ſheriff, or upon entering or lodging an appeal, or upon iſſuing a certiorari, a writ of error, an injunction, or a ne exeat.				
For every twenty words contained in the record of any conveyance or deed, with the papers thereunto annexed, except ſuch as a particular fee is before allowed for the recording of, or in the record of any letter of attorney, bond, teſtament or laſt will, inventory, account, report, or arbitrament; or in the record of proceedings and exhibits filed in any ſuit; or contained in the copy of any ſuch record, writing, or exhibit; four arithmetical figures being computed as one word.				
For a ſearch, if the writing ſearched for be not found, or a copy thereof be not taken.				
SHERIFF or MARSALL.				
For an inquiſition taken in the country.				
For ſummoning the jurors when no inquiſition ſhall be taken, if not through his default.				
For ſerving and returning any proceſs to ſummon, attach, or arreſt one, or diſtrein his eſtate, and either delivering to him a copy of the proceſs, or taking him in cuſtody, or taking bond for his appearance, as the law may require in the caſe.				
A writ of ſcire facias.				
A writ of exigi facias.				
An order of court.				
A ſubpœna in chancery.				
A ſummons or ſubpœna to teſtify.				
A writ of dower or partition.				
A declaration in ejectment, if on one tenant				
if more than one, for each.				
The warrant of a Juſtice of the Peace.				
For returning upon any proceſs that the party is not found, or hath nothing in the bailiwick of the ſheriff by which he could make known.				
For committing one to priſon, and releaſing him.				

OFFICERS.

For ſervices performed.

SHERIFF or MARSHALL. fees.	pounds	ſhillings	pence	of current money, or, if the debtor chuſe it pounds of tobacco
For ſummoning and impannelling a jury charged in court.				
For every day he ſhall attend a ſurveyor, with jurors, or without them, in the country, by writ, or by order of court.				
For returning nulla bona, or a devaſtavit.				
For every day a priſoner in his cuſtody ſhall be maintained by him.				
For returning, and doing execution by virtue of, a writ of levari facias, fieri facias, or any writ of attachment in nature thereof, or by virtue of a ſentence of the Court of Admiralty.				
If the debt or damages and coſts recovered, or the proceeds of the ſubject condemned to be ſold, be not more than one hundred pounds, for every twenty ſhillings.		1		
If more than one hundred pounds, and leſs than four thouſand eight hundred and fifty pounds, for the firſt hundred pounds.	5			
And for every fifty ſhillings above one hundred pounds.		1		
And if equal to, or more than, four thouſand eight hundred and fifty pounds.	100			
If the debt or damages be tobacco the fees for making or levying ſuch debt or damages, ſhall be paid in money, and ſhall be adjuſted by the foregoing rules, every thouſand pounds weight of tobacco being eſtimated at ten pounds of money.				
For returning, and doing execution by virtue of, a writ of capias ad ſatisfaciendum, the ſame proportion of the debt, or damages, and coſts, appearing by the writ to be due, as in the preceeding paragraph; unleſs the defendant ſhall be diſcharged by taking the oath of an inſolvent debtor, or becauſe no ſecurity is given for the priſon fees; in the former of which caſes the ſheriff ſhall be intitled to the proportion aforeſaid of what the debtor's effects, contained in the ſchedule delivered in by him, ſhall amount to when ſold or recovered; and in the other caſe to fees for the commitment and releaſement of the priſoner, and the allowance for his maintenance in jail only.				
For returning, and doing execution of, a writ of habere facias ſeiſinam, or habere facias poſſeſſionem, or to make partition, and aſſign the purparties.				
For putting one in the ſtocks.				
in the pillory.				
Whipping one.				
For every mile he ſhall neceſſarily travel in proſecution of any buſineſs he is by law directed to tranſact out of his county.				
For ſummoning and attending the Juſtices of his county for examination of one charged with treaſon or felony.				
For ſummoning a jury to try ſuch priſoner.				
For every day he ſhall attend the General Court on ſuch trial.				
For executing one condemned to die.				
CORONER.				
For an inquiſition taken on view of the body of a dead perſon, to be paid out of the eſtate of the deceaſed, if any, or elſe by the county.				
For any other ſervice the ſame fees as the ſheriff is intitled to for the like.				
Jailor.				
Conſtable. For ſerving a warrant.				
ſummoning a witneſs.				
a Coroner's inqueſt.				
putting one in the ſtocks.				
ſerving an execution,				
For every mile he ſhall neceſſarily travel in removing one and returning, beſides ferriages.				
Counſellor, or Attorney at law, or Proctor. For proſecuting or defending a ſuit in the High Court of Chancery, or in the General Court when the title or boundaries of land ſhall be in queſtion, or in the Court of Admiralty.				
any other ſuit in the General Court.				
For an opinion given by one practiſing in the High Court of Chancery or General Court.				
For proſecuting and defending a petition for a demand of leſs value than five pounds.				
any other ſuit in the court of the county, city or borough; or for advice by one practiſing in ſuch court one half ſo much as one practiſing in the High Court of Chancery or General Court is hereby intitled to in the like caſe.				
SURVEYOR of LAND.				
For the ſurvey of a tract of land, and a certificate of the ſurvey, with a plot protracted by the true meridian, and determining the variation thereof, towards the eaſt or weſt, from the magnetical meridian, delineating the waters and mentioning the marked trees, and other notable objects which occur in, coincide with, or are adjacent to, every line, with their diſtances from one another, and from ſuch line, and caſting up the content of the area, if ſuch content be leſs than four hundred acres, not being a lot in a town, or laid off for a mill.				
if the content be more than four hundred acres, beſides that fee, for every hundred acres of ſuch ſurplus.				
For ſurveying a lot in town.				
an acre of land laid off for a mill.				
For every pole of a ſingle line, or of ſeveral lines, not incloſing a ſpace, or any part of ſuch line or lines, in the ſurveying whereof his progreſs ſhall be hindered by another.				
For joining together the plots of ſeveral parcels of land, which are contiguous and making one plot of the whole.				

OFFICERS.

	For ſervices performed.	pounds	ſhils.	pence
NAVAL-OFFICER.	fees.			
For entering a veſſel of fifty tons burthen or under.			10	
above fifty and under one hundred tons.			15	
of one hundred tons or more.		1	10	
taking a bond.			2	6
giving a permit to break bulk and to load.			2	6
a bill of health.			5	
a bill of ſtores, to be granted during an embargo on proviſions, and not otherwiſe.			2	6
a certificate for imported goods removed out of one diſtrict to another after they ſhall have been landed, to be paid to the officer from whoſe diſtrict the goods ſhall be carried.			2	6
For authenticating a regiſter.				
For atteſting a tranſfer.				
performing the duty of a ballaſt maſter where there is no ſuch officer the ſame that he would have been intitled to				
BALLAST MASTER.				
For every day he ſhall attend the delivery of ballaſt, to be paid before a certificate thereof be given.				

CHAP. XXXIV.

A BILL *declaring Bills of Credit to be equal to Gold and Silver coin of the ſame denominations.*

SECTION I. BE it enacted by the General Aſſembly, that the bills of credit emitted by the American Congreſs, ſo long as they continue current by the ſame authority, and the like bills emitted by act of General Aſſembly, may be paid in diſcharge of all demands due in money, every four pence, contained in the denominations of the ſaid bills, being computed equal to three pence of ſterling money, or of the lawful money of England, and to four pence of the lawful money of this commonwealth: And a tender of any ſum in ſuch bills, or in bills of credit emitted or to be emitted by acts of General Aſſembly, to any creditor, or to the factor or agent of a creditor reſiding in foreign parts, with whom the contract, by which the debt or demand aroſe, was made, or to any other perſon authoriſed to receive the ſame, ſhall be as effectual as a tender of the like ſum in gold or ſilver coin of the legal ſtandard, according to the proportions aforeſaid, or as a tender to the creditor himſelf.

CHAP. XXXV.

A BILL *to prevent the Circulation of private Bank Notes.*

SECTION I. BE it enacted by the General Aſſembly, that it ſhall not be lawful for any perſon to offer in payment a bank bill, or note for money, payable to bearer, and whoſoever ſhall offend herein ſhall not only forfeit, to the informer, ten times the value of the ſum mentioned in ſuch bill or note, but may be apprehended by warrant of a Juſtice, and, upon due proof of the fact made to him, or upon his own knowledge thereof, be bound to the good behavior, and if he afterwards offend in the like manner it ſhall be deemed a breach of the condition of the recogniſance.

CHAP. XXXVI.

A BILL *for withholding Britiſh property, to indemnify citizens who may ſuffer by confiſcation and to prevent ſuccour to the enemy thereby.*

SECTION I. FOR ſecuring to the citizens of this commonwealth an indemnification out of the property of Britiſh ſubjects here, in caſe the ſovereign of the latter ſhould confiſcate the property of the former in his dominions, as well as to prevent that acceſſion of ſtrength which the enemy might derive by withdrawing their property from hence: Be it enacted by the General Aſſembly, that the lands, ſlaves, ſtocks, implements of huſbandry, and other eſtate, except what is otherwiſe herein after provided for, within this commonwealth, of Britiſh ſubjects, ſhall be ſequeſtered, and remain in poſſeſſion of the commiſſioners heretofore for that purpoſe appointed, or be put into the poſſeſſion of ſuch as ſhall be from time to time, appointed, by the Governor, with advice of the Council of State. The ſaid commiſſioners ſhall have power, and are required, to place and keep the ſaid eſtates under the management and direction of proper agents, ſtewards, or overſeers, and diſpoſe of the produce thereof, and to demand, receive, and, by actions in the names of the proprietors, recover monies and other things which are and ſhall become due to them, and, after defraying the expences incurred in the management of the ſaid eſtates, and applying ſo much of the profits thereof, as the Governor, with the advice aforeſaid, ſhall judge reaſonable, and direct to be allowed, towards maintaining the wives and children, if any there be reſiding here, of the proprietors, pay the balances of ſuch profits and receipts into the loan-office of this commonwealth, taking certificates in the proprietors names, and delivering the certificates, and annually rendering accounts of their reſpective tranſactions to the Governor, who, with the advice aforeſaid, may cauſe the ſaid accounts to be adjuſted, and, in the names of the proprietors, recover any arrears from the commiſſioners, and pay the ſame into the ſaid loan-office.

SECT. II. A citizen of the commonwealth, who is debtor to a Britiſh ſubject, may lodge the money due, or any part thereof, in the ſaid loan-office, accounting ſixteen pence of the lawful money of the commonwealth, or two-ninths of a dollar in bills of credit there current, equal to twelve pence of any ſuch debt payable in the lawful money of England, taking a certificate payable to the creditor, with an endorſement thereon of the debtor's name, ſigned by the commiſſioner of the office, and delivering the ſame to the Governor, whoſe receipt ſhall diſcharge the debt, wholly or partly as the caſe may be. A ſtate of all which matters ſhall be laid before the General Aſſembly, whenever they ſhall require it. If a citizen of the commonwealth, being a coparcener, jointenant, or tenant in common, with a Britiſh ſubject, bring a writ de partitione facienda in the General Court, or a ſuit for a partition by bill in equity, if that be the proper remedy in the High Court of Chancery, ſervice of the proceſs, againſt the tenant or defendant, upon the commiſſioner, for his eſtate, perſonally, ſhall be deemed equivalent to ſervice upon the party himſelf, and be as effectual to all purpoſes, ſave that if the partition

thereupon made be without title, or unequal, which the commiſſioner ſhall endeavor to prevent, entering into the defence, or anſwering, and conteſting the matter, for the tenant or defendant, and at his coſts, the tenant or defendant ſhall not be concluded by the partition, unleſs the purparty aſſigned or allotted to the demandant or plaintiff ſhall be afterwards ſold to a purchaſer for valuable conſideration, bona fide paid or agreed to be paid, in which caſe the tenant or defendant ſhall have redreſs againſt the demandant or plaintiff, or his repreſentatives, when the General Aſſembly ſhall hereafter allow ſuit to be brought for that purpoſe.

SECT. III. SUITS between Britiſh ſubjects only, demandants or plaintiffs, and citizens of the commonwealth, tenants or defendants, which have not been, or ſhall not be, diſcontinued by acts of the parties, or abated by death, ſhall ſtand continued in the ſame condition as they were in on the twelfth day of April, in the year of our Lord one thouſand ſeven hundred and ſeventy four; and in ſuits between ſubjects and citizens, joint demandants or plaintiffs, and citizens, tenants or defendants, execution, as to the parts recovered on behalf of the ſubjects, ſhall be ſuſpended, until further proviſion be made in the caſes of both thoſe claſſes: And in ſuits between ſuch citizens only, demandants or plaintiffs, and ſubjects only, or citizens and ſubjects jointly, tenants or defendants, the benefit of new trials or rehearings, with future Legiſlative permiſſion and direction, if it be then judged reaſonable, ſhall be ſaved to the latter.

CHAP. XXXVII.

A BILL to prevent loſſes by Pirates, enemies, and others on the High Seas.

SECTION I. BE it enacted by the General Aſſembly, that when any ſhip of this commonwealth ſhall have been defended againſt pirates or enemies and brought to her port of delivery, and in making ſuch defence any of the officers or ſeamen ſhall have been killed or wounded, the Judges of the Admiralty, on the petition of the maſter or ſeamen, ſhall call unto them four or more good and ſubſtantial merchants, and by advice with them, ſhall levy on the reſpective adventurers and owners of the ſhip and goods, by proceſs out of the ſaid court, ſuch ſums of money as themſelves and the ſaid merchants, by plurality of voices, ſhall judge reaſonable, not exceeding two pounds per cent. of the freight, ſhip, and goods, according to the firſt coſt of the goods, and ſhall diſtribute the ſame among the captain, maſter, officers and ſeamen of the ſhip, and the widows and children of the ſlain, proportioning the ſame, according to their beſt judgment, and having ſpecial regard to the ſaid widows and children and to ſuch as ſhall have been wounded. And if the commander, maſter, or other officer, or any ſeaman or mariner, in any veſſel, carrying guns and arms, ſhall not, when attacked by any pirate, or enemy, fight and endeavor to defend themſelves and their veſſel, or ſhall utter any words to diſcourage the other mariners from defending the ſame, and by reaſon thereof the ſaid veſſel ſhall fall into the hands of ſuch pirate, or enemy, ſuch offender ſhall forfeit all wages due to him, to the owner and ſhall ſuffer impriſonment, at the diſcretion of a jury, if in their opinion ſuch veſſel might have been ſaved by a defence.

SECT. II. IF any combination ſhall be ſet on foot for running away with or deſtroying any veſſel, or the goods and merchandizes therein laden, the captain, commander or maſter, on due proof thereof, ſhall give a reward of fifty dollars, if the veſſel be of one hundred tons or under, and ſeventy five dollars if of greater burthen, to ſuch perſon as ſhall firſt make diſcovery thereof: Payment to be made at the port where the wages of the ſeamen ought next to be paid, and to be reimburſed as in in other caſes of ſalvage.

CHAP. XXXVIII.

A BILL for preſervation of Veſſels wrecked, or in diſtreſs, and of their Crews and Cargoes.

SECTION I. BE it enacted by the General Aſſembly, that a perſon deſerying a veſſel wrecked, or in peril, or goods belonging to her in danger of being loſt, ſhall immediately give notice thereof, to ſome neighbouring Juſtice of the Peace, or the Naval-Officer of the next port: And a Juſtice of the Peace deſerying, or being informed of ſuch veſſel or goods, ſhall forthwith call together, to aſſiſt in the preſervation thereof, ſo many men as he ſhall think neceſſary, who ſhall, without delay, attend accordingly: And for the ſame purpoſe the maſter or chief officer, of every veſſel, near the other, having the like knowledge, or information that the latter is in diſtreſs, ſhall ſend his boats and hands, ſo many as can be ſpared. The perſons ſo aſſembled ſhall obey the orders of the maſter or chief officer of the veſſel in diſtreſs, or, if he be not preſent, of the Juſtice of the Peace, or, in his abſence of the Naval-Officer. To all, who ſhall have aſſiſted on ſuch occaſion, reaſonable ſatisfaction ſhall be made, the quantum whereof, as well as the proportions among the claimants if the parties diſagree, ſhall be adjuſted by the Court of Admiralty. And in the meantime the goods preſerved, or ſo much of them as may be ſufficient, ſhall remain in the hands of the Juſtice of the Peace, or Naval-Officer, who ſhall ſign an account of them, and deliver it, with a receipt, to the maſter or chief officer of the veſſel in diſtreſs, or, if he be not there to ſome other Juſtice of the Peace. Whoever ſhall refuſe, or wilfully neglect, to perform the duty, by this act enjoined, ſhall be amerced, and moreover may be compelled, in an action on the caſe, to be brought againſt him by any ſuffering party, to make reparation for ſuch damage ſuſtained as it ſhall be judged might have been prevented by performance. If no perſon authoriſed to take charge of the things ſaved from the wreck be preſent, the Juſtice of the Peace, or Naval-Officer, having provided for the ſecurity thereof, ſhall, ſo ſoon as may be, report the matter to the Court of Admiralty, who ſhall thereupon give ſuch directions, as they think proper, for defraying the ſalvage, ſelling the periſhable goods, and the ſafekeeping of the others, to be reſtored with the money raiſed by ſuch ſale, to him, who within one year and a day, ſhall claim and prove his property before the ſaid court, and if within that time no ſuch claimant appear, the things ſo preſerved, by order of the ſaid court, ſhall be ſold to the higheſt bidders, and the proceeds, after deducting incidental expences, together with the proceeds of the periſhable goods put into the public treaſury, for the uſe of the commonwealth, to be, nevertheleſs, reſtored to him who ſhall at any time afterwards prove his property before the ſaid court and produce their allowance of his claim.

SECT. II. EVERY citizen of this commonwealth commanding and navigating a veſſel ſhall aſſiſt any other veſſel met with, or deſcried by him at ſea, or elſewhere, in diſtreſs, and relieve the crew thereof, if he be drſired, ſo far as it can be done conſiſtently with the ſafety of his own veſſel and crew: and if he refuſe, or wilfully neglect, to give ſuch aſſiſtance and relief, ſhall be ſubject to the like action, as other perſons, by virtue of this act, are ſubject to for refuſal or neglect; and if any of the diſtreſſed crew periſh through ſuch inhumanity ſhall be likewiſe amerced.

CHAP. XXXIX.

A BILL concerning Eſtrays.

SECTION I. BE it enacted by the General Aſſembly, that it ſhall be lawful for any perſon, by himſelf, or his agent, to take up any eſtray on his own land; and having taken it, he, or his agent, ſhall forthwith give information thereof to ſome Juſtice of the Peace, for the ſaid county, who ſhall thereupon iſſue his warrant to three diſintereſted freeholders, of the neighbourhood, commanding them, having been firſt duly ſworn, to view and appraiſe ſuch eſtray and certify the valuation under their hands; together with a particular deſcription of the kind, marks, brand, ſtature, color, and age; which certificate ſhall, by the Juſtice, be tranſmitted to the clerk of the county court, within twenty days, and by ſuch clerk entered in a book to be kept for that purpoſe; for which he may demand and take ten pounds of tobacco to be paid down by the taker-up.

SECT II. THE clerk ſhall moreover cauſe a copy of every ſuch certificate to be publicly affixed at the door of his court-houſe on two ſeveral court days next after he receive the ſame, for which, and a certificate thereof, he ſhall receive the like fee as for entering the ſame in the book.

SECT. III. IF the valuation ſhall be under twenty ſhillings, and no owner ſhall appear until notice ſhall have been twice publiſhed as aforeſaid, the property ſhall then be veſted in the owner of the land on which ſuch eſtray was taken; and if the valuation ſhall exceed twenty ſhillings, ſuch owner ſhall, within one month after the appraiſement, ſend to the public printer a copy of the certificate, to be advertiſed three times in the Virginia Gazette with notice of the place where ſuch eſtray is, for which the printer may demand four ſhillings for each eſtray; and if no owner appears to claim ſuch eſtray within a year and a day after the publication, the property ſhall, from thenceforth, be veſted in the owner of the lands whereon it was taken. But the former owner, in either caſe, may, at any time within five years afterwards, upon proving his property, demand and recover the valuation money, deducting therefrom the clerk and printer's fees, and five ſhillings for every horſe or head of neat cattle, and one ſhilling for every other beaſt.

SECT. IV. IF any perſon ſhall take up a boat or other veſſel adrift, he ſhall in like manner make application to a Juſtice of one of the adjacent counties, for his warrant to have the ſame valued and deſcribed by her kind, burthen and built, and ſhall proceed in all other reſpects, and have the ſame benefit as before directed in the caſe of eſtrays.

CHAP. XL.

A BILL for reſtitution of ſtolen Goods.

SECTION I. BE it enacted by the General Aſſembly, that if any felon do rob or take away any money, or goods, or chattels, from any of the citizens of this commonwealth, from their perſon or otherwiſe, within this commonwealth, and thereof the ſaid felon be indicted, and after arraigned of the ſame felony, and found guilty thereof, or otherwiſe attainted by reaſon of evidence given by the party ſo robbed, or owner of the ſaid money, goods, or chattels, or by any other by their procurement, that then the party ſo robbed, or owner, ſhall be reſtored to his ſaid money, goods and chattels: And that the Juſtices before whom any ſuch felon ſhall be found guilty, or otherwiſe attainted by reaſon of evidence given by the party ſo robbed, or owner, or by any other by their procurement have power by this preſent act, to award, from time to time, writs of reſtitution for the ſaid money, goods and chattels.

CHAP. XLI

A BILL for preventing infection of the horned cattle.

SECTION I. BE it enacted by the General Aſſembly, that the driving of cattle into, or through, the commonwealth, or any part thereof, if it be not to remove them from one plantation to another of the ſame owner, or to be uſed at his houſe, ſhall be deemed a nuiſance, unleſs the driver ſhall produce to any freeholder of a county, wherein the drove is paſſing, who ſhall require it, a bill of health, ſigned by ſome Juſtice of the commonwealth, containing the number of the drove, with deſcriptions of the cattle by their ſexes, fleſh marks and ear marks, or brands, and certifying them to be free from diſtemper; or, notwithſtanding he may produce ſuch bill of health, unleſs he ſhall forthwith obtain another, at the like requiſition, if any ſuch freeholder make affidavit, before a Juſtice, that he hath cauſe to ſuſpect ſome of the cattle to be diſtempered. Such bill of health ſhall not be given, in either caſe, before two diſintereſted freeholders appointed by warrant of a Juſtice, ſhall have viewed the cattle and reported them to be free from diſtemper. A freeholder refuſing to obey ſuch warrant ſhall be amerced. If the cattle appear, by the report, to be diſtempered, the owner may impound them; and if he refuſe to do ſo, or if he ſuffer them to eſcape from the pound before a Juſtice ſhall have certified that they may be removed without annoying others, the ſame Juſtice, or ſome other, to whom information ſhall be given of the fact, ſhall, by his order, cauſe them to be ſlaughtered; and their carcaſes, with the hides on, but ſo cut or mangled that none may be tempted to take them up and flay them, to be buried four feet deep. Thoſe who ſhall be employed in executing ſuch order ſhall receive five ſhillings for every head ſo buried, to be paid by the county wherein it ſhall happen; and every one appointed by the order who ſhall refuſe or neglect to execute it, ſhall be amerced. Every one ſhall ſo reſtrain his diſtempered cattle, or ſuch as are under his care, as that they may not go at large off the land to which they belong; and when they die ſhall bury them with their hides in manner aforeſaid, and knowingly offending in either of thoſe inſtances ſhall be amerced.

CHAP. XLII.

A BILL for improving the breed of Horſes.

SECTION I. BE it enacted by the General Aſſembly, that no perſon ſhall ſuffer a ſtoned horſe, of the age of two years, whereof he is owner, or hath the keeping, to run at large, out of the incloſed ground of the owner or keeper; and whoſoever ſhall wilfully or negligently do ſo, after having been admoniſhed to confine ſuch horſe, ſhall forfeit and pay five pounds, to him who will ſue for it, and double that ſum for any ſuch tranſgreſſion after one conviction; and if, after a ſecond conviction, the ſame horſe be found ſo running at large, it ſhall be lawful for the perſon who will take him up to retain him to his own uſe.

CHAP. XLIII.

A BILL *for preſervation of Deer.*

SECTION I. BE it enacted by the General Aſſembly, that it ſhall not be lawful for any perſon to kill, hunt, or courſe any wild deer whatever, not being more than twelve months old, or in any year called biſſextile or leap year; or to kill, hunt or courſe in any other year, a wild buck, after the firſt day of December, and before the firſt day of Auguſt, or a wild doe, between the firſt day of January, and the firſt day of October following, unleſs ſuch deer, at the time, be found within the incloſed land of ſuch perſon, or be wanted for food, on the weſtſide of the Alleghany ridge of mountains. Whoſoever ſhall offend againſt this act, ſhall forfeit and pay, for every deer by him unlawfully killed, twenty ſhillings, one half thereof to the uſe of the commonwealth, and the other half to the informer; and moreover, ſhall be bound to their good behaviour; and, if, within twelve months after the date of the recognizance he ſhall bear a gun out of his incloſed ground, unleſs whilſt performing military duty, it ſhall be deemed a breach of the recognizance, and be good cauſe to bind him a new, and every ſuch bearing of a gun ſhall be a breach of the new recognizance and cauſe to bind him again.

CHAP. XLIV.

A BILL *for preventing Frauds by the dealers in Flour, Beef, Pork, Tar, Pitch and Turpentine.*

SECTION I. BE it enacted by the General Aſſembly, that flour, beef, pork, tar, pitch and turpentine, before they be ſhipped for exportation, or ſold, or bartered, ſhall be inſpected, and the veſſels containing them ſhall be ſtamped, in the manner herein after directed, by one of the perſons whom the county courts ſhall appoint, reſiding in their reſpective counties, and not being owners of merchant mills, or employed in them, nor dealing in any of the commodities ſubject to their examination; which appointment ſhall be made, with open doors, in Auguſt or September, annually, or at ſuch other time as it may be neceſſarily required. The inſpector, having in the court of his county given aſſurance of his fidelity to the commonwealth, and taken an oath to execute his office faithfully and impartially, ſhall attend at ſuch time and place as the owner of the commodity ſhall appoint; ſuch place, if the commodity be brought from any other ſtate, being a public landing; and the inſpector, if he judge the commodity inſpected to be of ſuch quality, and it be packed, or filled, preſerved, and ſecured, in ſuch manner as are herein after deſcribed, ſhall ſtamp on the veſſel containing it the letter V. the initial letters of his county's name, and his own chriſtian name, and his Sur-name at length, and the letter F, if it be fine flour, or the letters S F, if ſuperfine, and L, if it be large, or S, if it be ſmall, pork; and if it be tar, pitch, or turpentine, ſhall mark it ſo as to diſtinguiſh the ſpecies, and moreover if it be turpentine, ſhall mark it ſo as to diſtinguiſh whether it be dipped or ſcraped, or a mixture of both, and ſhall alſo mark on every veſſel the nett weight or gauge, and give a certificate thereof accordingly to the owner; and may demand for every veſſel, if it contain flour, three halfpence, if beef, or pork, ſix pence, and if tar, pitch, or turpentine, two pence. Whoſoever ſhall deal in any of thoſe commodities, after he ſhall have been appointed inſpector thereof, during the time he ſhall continue in office, otherwiſe than in ſelling the immediate production of his eſtate, which ſhall be examined by another inſpector, if neceſſary, or in buying for the conſumption of his own family, or for the uſe of ſuch eſtate; and every inſpector guilty of any breach of duty, either by refuſing or wilfully neglecting to perform his office, or by ſtamping any veſſel contrary to the directions of this act, ſhall be amerced. A perſon making wheat flour for exportation ſhall take an oath, which a Juſtice ſhall adminiſter and certify, that ſuch flour is clean, pure, or not a mixture of different ſpecies, and merchantable, as the deponent believes; and ſuch certificate being produced to the inſpector, the flour, if it appear to him, after examination, to deſerve that character, ſhall, in his preſence, be packed; thoſe parcels of it which are of different degrees of fineneſs, ſeparately, in caſks made of ſeaſoned timber, clear of ſap, and bound with good hoops, ſecurely nailed or pinned. Every caſk in which beef or pork ſhall be packed for exportation, or ſale, ſhall be made of ſeaſoned white oak ſtaves and heading clear of ſap, and five eighths of an inch thick, and bound with hoops ſecurely nailed or pegged, and ſhall be light and contain two hundred and twenty pounds weight, at leaſt, of clean, ſound, fat meat, well pickled, with ſalt ſtrewed between the layers; and not more than two heads ſhall be in one and the ſame caſk of pork. And every caſk of tar, pitch, or turpentine, ſhall be made of ſtaves of equal lengths, and not leſs than three fourths of an inch thick, and heading not leſs than three fourths of an inch, nor more than one inch and an half thick, and both clear of ſap; ſhall be well bound with good hoops two thirds of its length; ſhall have the bulge and each head circular; and ſhall contain thirty two gallons and an half, wine meaſure, at leaſt. Whoſoever ſhall alter or counterfeit the ſtamp or certificate of an inſpector ſhall be amerced, and impriſoned: And whoſoever ſhall ſell or barter flour, beef, pork, tar, pitch, or turpentine, not ſtamped as aforeſaid ſhall be amerced. The cooper ſetting up, or other perſon ſelling, caſks for the reception of the commodities before enumerated, ſhall make or diſpoſe of ſuch only as are of the materials and capacities reſpectively required by this act, with his name branded thereon, and, if he do otherwiſe, he ſhall forfeit and pay to the informer two ſhillings and ſix pence for every caſk defective in any ſuch requiſites, or unbranded. The owner of a merchant mill or bake-houſe, with a branding inſtrument, a deſcription of which ſhall be recorded in the court of his county, ſhall impreſs on every caſk of bread or flour, there manufactored for ſale or exportation, before it be removed from thence, either the initial letter of his Chriſtian name, and his Sur-name at length, or the name of the mill; he ſhall alſo mark, on ſuch caſk, the tare thereof, and when he ſhall deliver bread or flour, he ſhall give a manifeſt or invoice thereof: And if he neglect or refuſe to perform what is hereby enjoined, he ſhall forfeit and pay to the informer for every caſk ſo delivered, if it be unbranded, or untared, one ſhilling; or if falſe tared fifty ſhillings; and for refuſing to give the manifeſt or invoice forty ſhillings. Weights and meaſures at all merchant mills and bake-houſes ſhall be examined once in every year, by perſons to be appointed by the county court, and adjuſted by the legal ſtandard; and the owners who ſhall deal by weights and meaſures not ſo examined and adjuſted ſhall be amerced. The driver of a carriage, or ſkipper of a veſſel, conveying bread or flour, to be ſhipped for exportation, ſhall cover it ſo that it receive no damage from the weather, and if he neglect to provide and make uſe of ſufficient covering for the purpoſe, he ſhall forfeit, one ſhilling, to the informer, for every caſk of bread or flour ſo conveyed. The ſeller or exporter of any of the commodities before enumerated ſhall take an oath, to be adminiſtered and certified by a Juſtice at the time of delivering them for exportation, that they are the ſame which are mentioned in the certificates of the inſpectors correſponding with them; and that the deponent doth not know nor believe them to have been embezzled, or altered, or otherwiſe diminiſhed than by unavoidable ſhrinkage; and no veſſel having ſuch commodities on board ſhall be cleared out before the certificate of ſuch oath, as well as the inſpector's certificates ſhall be produced to the Naval-Officer. A Juſtice ſhall grant a warrant to any perſon requiring it, impowering the ſheriff, in the day time, to ſearch for

any of the ſaid commodities ſuſpected to be ſhipped for exportation, uninſpected or unſtamped, affidavit having been firſt made that there is a good cauſe for ſuch ſuſpicion; and every cask or other veſſel containing any ſuch commodity, ſo ſhipped contrary to law, whether diſcovered by the ſearch, or otherwiſe proved to be ſo, may be ſeized, and ſhall be forfeited to the uſe of the informer.

CHAP. XLV.

A BILL *for licenſing and regulating Taverns.*

SECTION I. BE it enacted by the General Aſſembly, that it ſhall not be lawful for any one to keep a tavern, before they ſhall have obtained a licenſe for that purpoſe from the court of the county in which the tavern is, or, if it be in Williamſburg, from the court of that city; and if any one, without ſuch authority, open a tavern, or ſell, by retail, wine, beer, cyder, or rum, brandy, or other ſpiritous liquor, or a mixture thereof, to be drunk in the place where it ſhall be ſold, ſuch offence ſhall be deemed a breach of the good behaviour: Which licenſe ſhall be granted only to ſuch as the court ſhall think able to provide for the accommodation of travellers, and in ſuch places as are moſt convenient for them, and ſhall be in force one year, and from the end thereof until the next ſeſſion. If gueſts, or others, play at any game, contrary to law, in a tavern, and the keeper thereof ſhall not endeavor to hinder them, and if they perſiſt to give information of the offence, within one month thereafter, to the court, or two juſtices of the Peace, his licenſe ſhall be revoked by the court, unleſs, being ſummoned to ſhew cauſe to the contrary, he appear, and prove ſuch facts as induce them to believe, not only he did not know of, but moreover that he had no reaſon to ſuſpect ſuch playing. The prices to be paid for diet, liquors, lodging, provender, ſtablage, and paſture, at taverns, ſhall be rated, once a year, by the court, of which rates a copy, within one month afterwards, as they ſhall be ſet, or from time to time, altered, atteſted by the clerk of the peace, ſhall be ſet up by every keeper of a tavern, expoſed in ſome public room thereof, not more than ſix feet above the floor; and ſo long as he neglect this, after the month, he ſhall have no right to demand any price for a rated article. Neither ſhall the keeper of a tavern recover more than for liquors ſold, within the ſpace of a year, to one perſon, reſiding leſs than twenty miles from ſuch tavern, and drunk, or ſold to be drunk, in the place where it is kept; and a written contract, or bond, or other ſpecialty, for payment, delivery, or ſecurity, of money, or other things, or for performance of any work or ſervice, whereof the whole or any part ſhall have become due for liquors ſo ſold, ſhall be void.

CHAP. XLVI.

A BILL *concerning Public roads.*

SECTION I. BE it enacted by the General Aſſembly, that where any perſon or perſons ſhall make application, to any county court, to have a new road opened, or a former one altered, within their county, for the convenience of travelling to their county court-houſe, to any public ware-houſe, landing, ferry, mill, lead or iron works, or to the ſeat of government, they ſhall appoint three or more diſcreet and able perſons, to be ſworn before a Juſtice of the Peace, to view the ground along which ſuch road is propoſed to be conducted, and to report to them truly and impartially, the conveniencies and inconveniencies which will reſult, as well to individuals, as to the public, if ſuch way ſhall be opened; and where the application is to alter a former road, they ſhall alſo view the former road, and report, in like manner, the comparative conveniencies and inconvencies thereof.

SECT. II. UPON the return of the ſaid viewers, if the court ſhall be of opinion that the road applied for will be convenient, they ſhall order ſummonſes to be iſſued to the proprietors and tenants of the lands through which the ſame is propoſed to be conducted, if they be found within the county, and if not, then to their agents therein, if any they have, to ſhew cauſe why ſuch road ſhould not be opened; upon the return of which ſummons, if any proprietor or tenant, ſo deſire, the ſaid court ſhall order their clerk to iſſue a writ, in the nature of a writ of ad quod damnum, to be directed to the ſheriff, commanding him to ſummon and empannel twelve able and diſcreet freeholders of the vicinage, no ways related to any party, to meet at ſome certain place, on the grounds through which the ſaid road is propoſed to be conducted, and on a certain day, to be named by the court, and inſerted in the ſaid writ, of which notice ſhall be given by the ſheriff to the ſaid proprietors or tenants, or their agents, as before directed, if they were not preſent, in court, at the time of the order made: Which freeholders taking nothing (on pain of being diſcharged from the inqueſt and immediately impriſoned by the ſheriff) either of meat or drink, from any perſon whatever, from the time they ſhall come to the ſaid place until their inqueſt ſealed ſhall be charged by the ſaid ſheriff impartially, and to the beſt of their ſkill and judgment to view the lands through which the ſaid road is propoſed to be conducted, and ſay to what damage it will be of to the ſeveral and reſpective proprietors and tenants who deſired ſuch writ, taking into eſtimation, as well the uſe of the lands, to be laid open for ſuch road, as the additional fencing which will thereby be rendered neceſſary; and if the ſaid inqueſt cannot be completed in one day, the ſheriff ſhall adjourn the ſaid jurors, from day to day, until the ſame be completed. Which inqueſt, ſealed by the ſaid jurors, together with the writ, ſhall be returned to the court, who thereupon, as well as upon other evidence, ſhall proceed to conſider whether all circumſtances weighed, it be better that the ſaid road ſhall be opened; and if they be of opinion that the ſame ſhall be opened, they ſhall levy on their county, at their next levy to be laid, the damages ſo found, and the coſts of the inqueſt, and direct them to be paid to thoſe reſpectively entitled thereto. But if they ſhall be of opinion the ſaid road ought not to be opened, the coſts of ſuch inqueſt ſhall be adjudged againſt the party applying for the ſaid road. But it ſhall not be lawful for any court to order a road to be opened through any lot of land, in any town, without the conſent of the owner and tenant thereof.

SECT. III. THE ſeveral courts ſhall alſo divide all the public roads into precincts, and as often as it ſhall be neceſſary, appoint a ſurveyor over every precinct, whoſe duty it ſhall be to ſuperintend the road in his precinct, and ſee that the ſame be cleared and kept in good repair; which ſurveyor ſhall continue in office until another ſhall be appointed, by the ſaid court, in his ſtead.

SECT. IV. ALL male labouring perſons of the age of ſixteen years or more, except ſuch as are maſters of two or more male labouring ſlaves of the age of ſixteen years or more, ſhall be appointed by the court, to work on ſome public road; for every perſon ſo appointed, who, when required by the ſurveyor placed over him, ſhall, without legal cauſe or diſability, fail to attend with proper tools for clearing the road, or ſhall refuſe to work when there, or to find ſome other perſon equally able to work in his room, the ſum of for every day's offence, ſhall be paid by himſelf, if he be a freeman of full age; if an infant, then by his parent, guardian, or maſter, and if a ſlave or ſervant, then by his overſeer, if he be under one, or otherwiſe by his maſter.

SECT. V. THE clerk of every county court, ſhall, within ten days after the appointment of any ſurveyor of a road, deliver a copy of the order to the ſheriff of the county under the penalty of fifteen ſhillings, and the ſheriff, within fifteen days after the receipt of ſuch order, ſhall deliver the ſame to the ſurveyor under the penalty of fifteen ſhillings. And each clerk ſhall moreover, once in every year, fix up, in the court-houſe, a liſt of the names and precincts of all the ſurveyors of roads in his county, under the penalty of fifty ſhillings for every neglect.

SECT. VI. EVERY ſurveyor of a road ſhall cauſe the ſame to be conſtantly kept well cleared and ſmoothed, and thirty feet wide at the leaſt, and at the fork or croſſing of every public road ſhall cauſe to be erected and kept in repair, from time to time, a ſtone, or otherwiſe an index on a poſt or tree, with plain inſcriptions thereon, in large letters, directing to the moſt noted place to which each of the ſaid roads ſhall lead, and may take ſtone or wood, for that purpoſe, from any adjoining land: And for the expence of ſetting up and inſcribing ſuch ſtones, poſts or indexes, and keeping them in repair, the ſurveyor ſhall be reimburſed by the county court in their next ſucceeding levy; and where bridges and cauſeys are neceſſary, the ſurveyor ſhall cauſe them to be made twelve feet broad at the leaſt, convenient and ſafe, and ſhall keep the ſame in repair; and for that purpoſe may cut and take, from the lands of any perſon adjoining, ſuch and ſo much timber, earth, or ſtone, as may be neceſſary; the ſame being firſt viewed and valued by two honeſt houſe-keepers appointed and ſworn, for that purpoſe, by a Juſtice of Peace, unleſs the owner ſhall freely give ſuch timber, ſtone or earth for that uſe; but where a road leads through a city or town, the ſurveyor ſhall not take any timber, ſtone or earth, from any lot within the town, without the permiſſion of the owner, but ſhall take the ſame from the lands nigh or adjacent to the ſaid town, where it will do the leaſt injury to the proprietor; and where the aſſiſtance of wheel carriages is neceſſary for making or repairing any cauſey, any Juſtice of Peace may iſſue his warrant, under his hand and ſeal, for impowering the ſurveyor to impreſs ſuch neceſſary carriages, draught horſes, or oxen, with their gear and driver belonging to any perſon, who, or their ſervants or ſlaves, are appointed to work on the road, and appointing two honeſt houſe-keepers, who, being ſworn, ſhall value, by the day, the uſe of ſuch carriages, draught horſes, oxen and driver: Which valuation, with a certificate from the ſurveyor how many days the ſaid things were imployed in the work, ſhall intitle the owner to an allowance for the ſame in the next county levy. And in the like manner ſhall the owner of timber, ſtone or earth taken for bridges or cauſeys, be intitled to the valuation thereof in the next county levy, upon a certificate from the two houſe-keepers who value the ſame. Every ſurveyor of a road, who fails to do his duty as aforeſaid, ſhall forfeit fifteen ſhillings for every offence.

SECT. VII. WHERE a bridge or cauſey ſhall be neceſſary, and the ſurveyor with his aſſiſtants cannot make or maintain the ſame, the court of the county are impowered and required to contract for the building and repairing ſuch bridge or cauſey, and to levy the charge thereof in their county levy. And where ſuch bridge or cauſey ſhall be neceſſary from one county to another, the court of each county ſhall join in the agreement for building and repairing the ſame, and the charge ſhall be defrayed by both counties, in proportion to the public tax or aſſeſſment paid by each. Upon every ſuch contract or agreement, bond and ſecurity ſhall be given by the undertaker, payable to the Governor, and his ſucceſſors, for the uſe of the county, or counties, as the caſe ſhall be, with condition for performing the ſame; and may be proſecuted, at the coſts, and for the benefit of the county or counties, or any perſon ſuſtaining a loſs by the breach thereof, as often as it ſhall happen, until the whole penalty of the bond ſhall be paid. And all ſuch contracts, made by county courts, or others appointed by them, ſhall be available and binding upon the Juſtices and their ſucceſſors, ſo as to intitle the undertaker to his ſtipulated reward in the county levy; or to a recovery thereof, with coſts, by action of debt againſt the Juſtices refuſing to levy the ſame.

SECT. VIII. WHEN the Juſtices of one county ſhall judge a bridge or cauſey over any place, between them and another county, to be neceſſary, they ſhall notify the ſame to the Juſtices of ſuch other county, and require them to appoint three perſons, to meet at the ſaid place, on a certain day, to be named by the court requiring the ſame, to confer with three others, to be appointed by the ſaid requiring court, and agree on the manner and condition of executing the ſame: Which ſix perſons, or ſo many of them as meet, being not fewer than three, ſhall have power to agree on the manner and conditions of doing the ſaid work, and to ſee that the ſame be done: And if the court ſo required ſhall fail to appoint perſons to act on their behalf, or to do what on their part ſhould be done towards executing and paying for the ſaid work, the Juſtices of the court which made the requiſition ſhall apply to the General Court for a writ of mandamus, to be directed to the Juſtices of the other court, commanding them to do what on their part they ought to have done and have failed to do, or to ſignify to them cauſe to the contrary thereof; upon the return of which writ, the General Court, if they ſhall be of opinion that the work is unneceſſary, or that other ſufficient cauſe is returned, ſhall quaſh the writ, or if they think otherwiſe, ſhall cauſe ſuch further proceedings to be had as are uſual in other caſes of mandamus iſſuing from the ſaid court: And the like method of proceeding, by way of mandamus, ſhall be uſed where the Juſtices of one county ſhall think it neceſſary to open a road, to their county line, for the convenience of paſſing to ſome public place in another, and the Juſtices of ſuch other ſhall refuſe to continue the road through their county.

SECT. IX. IF any perſon ſhall fell a tree into a public road, or into any ſtream of water whereon there ſhall be any public bridge, and ſhall not remove the ſame within forty eight hours, or ſhall kill, or fell, a tree within the diſtance of fifteen feet from the road, or ſhall cut, pull up, deſtroy, or deface, any ſtone or poſt erected for the direction of travellers, or the indexes, or inſcriptions thereon, it ſhall be deemed a nuiſance.

SECT. X. EVERY free man, of full age, ſo offending, or the parent, maſter or owner of every child, apprentice, ſervant or ſlave, ſo offending, with his or her knowledge, ſhall forfeit and pay ten pounds for every offence. And where any fence ſhall be made acroſs a public road, the owner or tenant of the land, ſhall pay ten ſhillings for every twenty four hours the ſame ſhall be continued.

SECT. XI. THE owner or occupier of every dam, over which a public road paſſes, ſhall conſtantly keep ſuch dam in repair, at leaſt twelve feet wide, at the top, through the whole length thereof, and ſhall keep and maintain a bridge of like breadth, with ſtrong rails on each ſide thereof, over the pier head, flood-gates, or any waſte cut through or round the dam, under the penalty of ten ſhillings for every twenty four hours failure: But where a milldam ſhall be carried away, or deſtroyed, by tempeſt or accident, the owner or occupier thereof ſhall not be liable to the ſaid penalties, from thenceforth, until one month after ſuch mill ſhall have been ſo repaired as to have ground one buſhel of grain for toll.

SECT. XII. ALL the penalties in this act, not otherwiſe directed, ſhall be one moiety to the informer, and the other to the uſe of the county, recoverable, with coſts, on warrant, petition, or action, as the caſe may be. Any Juſtice, who upon his own view, ſhall diſcover a road, bridge, cauſey or milldam, as aforeſaid, out of repair, ſhall iſſue a warrant againſt the ſurveyor or other delinquent; and if no reaſonable excuſe be made for ſuch default, may give judgment for the penalty, and coſts, not exceeding twenty five ſhillings; or ſuch offenders may be preſented by the grand juries; in all which caſes of conviction, on view of a Juſtice or preſentment, or on private informations to Juſtices where there ſhall be no evidence to convict the offender but the informers own

oath, the whole penalties ſhall be to the uſe of the county towards leſſening the levy thereof, and ſhall be annually collected and accounted for by the ſheriff in the ſame manner as county levies; and to enable the ſheriff to make ſuch collection, every Juſtice immediately, on conviction of any offender where the penalty is to be to the county, ſhall certify the ſame to the clerk of his county court, who ſhall yearly, before the firſt day of March, deliver to the ſheriff a liſt of all the offenders ſo certified, and of all others convicted in court, within one year preceeding of any offence againſt this act.

SECT. XIII. PROVIDED that proſecutions for any offence herein mentioned, ſhall be commenced within ſix months after the offence committed, and not after.

CHAP. XLVII.

A BILL for eſtabliſhing Public Ferries.

SECTION I. BE it enacted by the General Aſſembly, that ferries be conſtantly kept, at the places hereafter mentioned, and at the rates annexed to each ferry; that is to ſay.

Over the *BAY* of *CHESAPEAK.*

	For a Man.	Horſe.
From George Wilſon Spooner's to Cedar Point in Maryland,	2 6	2 6
From Robert Lovel's to Maryland,	2 6	2 6
From William Tyler's to Cedar Point,	2 6	2 6
From Hoes to ditto,	2 0	2 0
From Lawrence Waſhington's to the oppoſite ſhore above or below Nanjamy creek,	2 6	2 6
From Boyd's Hole to the ſame place,	2 6	2 6
From Cook's, in Stafford, to Kennedy's, in Maryland,	2 0	2 0
From George Brett's, in Prince William, to Chamberlayne's, in Maryland,	1 6	1 6
From Triplett's land, below Quantico creek, to Brooks's, in Maryland,	1 6	1 6
From Poſey's, in Fairfax, to Marſhall's, in Maryland,	1 0	1 0
From Hereford's, in Doeg's Neck, to the the lower ſide of Pamunky creek, Maryland,	1 0	1 0
From William Clifton's to Wallis's in Maryland,	1 0	1 0
From Hugh Weſt's to Frazier's or Addiſon's, in Maryland,	1 0	1 0
From Hunting creek ware-houſe landing to the ſame place,	1 0	1 0
From Floyd's to Powell's,	0 6	0 6
Over the river Occoquan at Colcheſter,	0 3	0 3
Over Nominy in Weſtmoreland,	0 4	0 4
Over Maitox in Weſtmoreland,	0 3	0 3
From Maſon's, oppoſite to Rock creek, over to Maryland,	0 4	0 4
From the Earl of Tankerville's, in Loudoun, over to Maryland,	0 8	0 8
From Philip Noland's, in Loudoun, over to Maryland,	0 8	0 8
From Swearingham's, in Frederick, to his land in Maryland,	0 3¾	0 3¾
From Harper's to his land in Maryland,	0 3¾	0 3¾
From Foreman's, in Frederick, to the oppoſite ſhore,	0 3¾	0 3¾
From Aubrey's, in Loudoun, to Hook's, in Maryland,	0 3¾	0 3¾
From Watkins's, oppoſite to Canagochego creek, to Wade's in Maryland,	0 3	0 3
From the land of Abraham Shepherd, in the county of Berkely, over Potowmack, to the land of Thomas Swearingen in Maryland.	0 3	0 3
From Ruſſell's land on Shenandoah to the fork or over the main river,	0 3	0 3
From Kerſey's landing, on Burwell's land, to the land of Col. Landon Carter,	0 3¾	0 3¾
From Gerſham Key's land to the land of William Fairfax, Eſq; his heirs,	0 3¾	0 3¾
At Williams's Gap, from the land of Lord Fairfax to the land of Ralph Wormley, Eſq.	0 3¾	0 3¾
From Samuel Earles's to Lord Fairfax's,	0 3	0 3

On *RAPPAHANNOCK* River and its Branches.

From Whiting's to Gilbert's,	2 0	2 0
From Urbanna to Chetwood's,	2 0	2 0
to Locuſt Point on the land of Ralph Wormeley, Eſq.	0 3	0 3
From the lower ſide of Parrot's creek to Teague's creek,	1 6	1 6
From Byrd's to Williams's,	1 3	1 3
Over Piſcataway creek in Eſſex county,	0 3	0 3
Over Rappahannock creek in Richmond county,	0 3	0 3
From the landing of Archibald Ritchie, in Tappahannock town, to the cauſey oppoſite thereto,	1 0	1 0
From Ley's land to Robinſon's,	0 6	0 6
From the public landing at Leed's town to the cauſey oppoſite,	0 6	0 6
From Tankerſley's to the uſual place,	0 4	0 4
From the public landing in Port Royal to Gibſon's ware-houſe landing,	0 4	0 4
From the public landing in Port Royal acroſs Rappahannock to the lands of Francis Conway to be kept by James Bowie the younger and his heirs, ſo long as they ſhall keep the ſame well,	0 3¾	0 3¾
From Roy's ware-houſe landing to Gibſon's ware-houſe landing,	0 4	0 4
From Kay's landing to Skinner's,	0 4	0 4
From Taliaferro's landing to Berry's,	0 4	0 4
From Doniphan's landing to Battaile's,	0 3	0 3
From Caſſon's landing to Conway's,	0 3	0 3
From the warf at Newpoſt to Ball's landing,	0 3	0 3
From Johnſton's plantation, in Spotſylvania, to Waſhington's, in King George,	0 3	0 3
From Fredericksburg ware-houſe landing to Hunter's landing,	0 3	0 3
From Falmouth landing to the land of Francis Thornton,	0 3	0 3
From Germanna over the Rappidan,	0 3	0 3
At Philemon Cavenangh's ford,	0 3	0 3
From Eranham's over the Rappidan to Moore's,	0 3	0 3

On *PIANKETANK* River.

From Seaton's to the oppoſite ſhore,	0 6	0 6
From Turk's to the oppoſite ſhore	0 3¾	0 3¾

On *YORK* River and its Branches.

	For a Man.	Horſe.
From York town to Glouceſter town,	0 7½	0 7½
From Cappahoſick to Scimino,	1 3	1 3
From the brick houſe to Dudley's	1 0	0 10½
From Well Point to Dudley's,	0 6	0 6
From Fleet's to Fox's,	0 7½	0 7½
From William Frazier's to the cauſey oppoſite,	0 6	0 6
From Mantapike on the land of Col. George Brooke, to the cauſey on the land of William Frazier,	0 6	0 6
From Waller's to Walkerton,	0 3¾	0 3¾
From Temple's landing to the oppoſite ſhore,	0 3	0 3
From the brick houſe to We Point,	0 9	0 9
From Sweet Hall to Claiborne Gooches, if the cauſey be not kept in repair,	0 6	0 6
From the land of John Watkins, in New Kent, to the land of Thomas Claiborne's heirs. in King William,	0 6	0 6
From Chamberlayne's to Williams's,	0 6	0 6
From the land of George Webb, Eſq. to the oppoſite landing,	0 6	0 6
From Blackwell's to King's,	0 3	0 3
From Taylor's land to the land of Thomas Nelſon, Eſq.	0 3	0 3

On *JAMES* River and its Branches.

From Hampton to Sewil's Point,	3 0	3 0
to Brook's Point,	0 3	0 3
to Norfolk, or Nanſemond town,	7 6	7 6
or if more than a ſingle man and horſe,	5 0	5 0
From Mulbery Iſland Point, in Warwick, to Cocket's, in Iſle of Wight,	1 3	1 3
From Norfolk town to Crawford's or Sawyer's Point,	0 6	0 6
From Crawford's to Powder Point,	0 4	0 4
From William Hodſden's, over Pagan creek, to Smithfield,	0 4	0 4
From Charles Fulgham's to Smithfield,	0 6	0 6
From Cockfield's Point to Robert Peale's near Sleepy Hole,	0 6	0 6
From Jeremiah Godwin's, over the Weſtern branch, to James Benn's,	0 4	0 4
From Benjamin Baſcomb's, over Bennet's creek, to James Buxton's,	0 4	0 4
From John Reid's, over the Weſtern branch, to Jeremiah Godwin's,	0 3	0 3
From the land of Riddick, in Suffolk, to Jordon's,	0 4	0 4
From Col. Lewis Burwell's landing to Fort Point on Hog Iſland,	1 3	1 3
From the College Landing to Hog Iſland,	2 6	2 6
From James Town to Swan's Point,	0 7½	0 7½
to Cobham,	0 7½	0 7½
On Chickhominy at the uſual place,	0 6	0 6
From Cole's to William's,	0 3¾	0 3¾
From Delony's to Edloe's,	0 7½	0 7½
From Weſtover to Maycox or Coggin's Point,	0 7½	0 7½
From City Point to Bermuda Hundred,	1 0	1 0
From Bermuda Hundred to Shirley,	0 6	0 6
From Hood's, in Prince George, to Minge's land in Wyanoke,	0 7½	0 7½
From Kennan's to Maye's, on Appamatox river,	0 3¾	0 3¾
From Henry Batte's land, in Cheſterfield, to Bolling's land,	0 3	0 3
From the land William Pride, over Perſie's Stile creek, to the land of Peter Baugh,	0 3	0 3
to William Pride's land in Prince George county,	0 2	0 2
From Bolling's Point over Appamatox river,	0 2	0 2
From Charles Woodſon's, in Henrico, to Tarlton Woodſon's, Cheſterfield,	0 4	0 4
From the land of Henry Batte to the Glebe land, Varina,	0 3¾	0 3¾
From Charles Ellis's to Daniel Weldon's,	0 3	0 3
From the ware-houſe landing at Warwick to the land of Moſeley,	0 3	0 3
From the land of Patrick Coutt's, deceaſed, in Richmond town to Manchester town,	0 4	0 4
From the upper landing in Beverley town to the land of Britton		
From the land of Stephen Woodſon to the Menacon town,	0 3	0 3
From the land of Bennett Goode to the land of Col. John Fleming's heirs,	0 3	0 3
From the land of Tucker Woodſon to the land of Paul Micheux,	0 3	0 3
From the land of Richard Moſeby to the land of Tarlton Fleming's heirs,	0 3	0 3
From the land of John Woodſon below the mouth of Willis's creek, to his land on the oppoſite ſide of the river,	0 3	0 3
From the point of the fork of the Fluvanna and Rivanna rivers, acroſs the Fluvanna to the lands of Philip Mayo,	0 3	0 3
From the ſame point, acroſs the Rivanna, to the lands of Samuel Martin,	0 2	0 2
From the ſaid lands of Samuel Martin to the ſaid land of Philip Mayo,	0 3	0 3
From the lands of John Harvie, acroſs the Rivanna, to the land of Martin Key,	0 3	0 3
From the lands of William Cannon, acroſs the Fluvanna, to the lands of Walter King,	0 3	0 3
From the land of John Nicholas, Eſq; over the Slate river,	0 3	0 3
From the land of John Scott, over the Fluvanna, to the lands of Randolph Jefferſon,	0 3	0 3
From the land of Nicholas Davies, near the mouth of Battery creek, in the county of Bedford, over the Fluvanna, to his land oppoſite,	0 6	0 6
From the lands of Benjamin Howard to the lands of Neil Campbell,	0 3	0 3
From William Cabell's, over Rockfiſh, to Benjamin Howard's land,	0 2	0 2
From Thomas Joplin's, on Rockfiſh, to the oppoſite ſhore,	0 3	0 3
From Joſeph Cabell's land to the land of William Cabell oppoſite,	0 3	0 3
From John Cabell's land, over the Fluvanna, to the oppoſite ſhore,	0 3	0 3
From the north ſide of the Fluvanna to William Megginſon's,	0 3	0 3
From the land of Cabell, at the mouth of Swan's creek, over the Fluvanna, to the land of Samuel Spencer, or acroſs the river,	0 3	0 3
From Edward Lynch's to Edward Moorman's land,	0 3	0 3
From the lands of Henry Trent, acroſs the Fluvanna, to the lands of Nicholas Davies,	0 3	0 3
From the lands of Nicholas Davies, over the Fluvanna, to his lands on the oppoſite ſide,	0 3	0 3

	For a Man.	Horſe.
From George Stovall's land, over the Fluvanna, to his land oppoſite,	0 3	0 3
From the land of William Crow to the land of Andrew Boyd,	0 3	0 3
From the land of John Buchannon's heirs to their land oppoſite,	0 3	0 3
From Branches over James river to the oppoſite ſhore,	0 3	0 3
From the land of Jacob Micheaux to the land of Thomas Atkins,	0 3	0 3
From the land of William Ingles, over New river, to the oppoſite ſhore,	0 3	0 3
From the lands of Jacob Bouſman, acroſs the Monongala, to Pittſburg,	0 4½	0 4½
On *NOTTOWAY* River.		
From Thomas Drew's land to Dr. Brown's,	0 3	0 3
From Bolton's to Simmons's land,	0 3	0 3
On *ROANOAKE* River and its Branches.		
From Jefferſon's in Mecklenburg to the oppoſite ſhore,	0 4	0 4
From Anderſon's to Taylor's land,	0 3	0 3
From Wagſtaff's to Palmer's	0 3	0 3
From Samuel Jones's to Frederick Jones's	0 3	0 3
From Fox's to Blanton's,	0 3	0 3
From Harwood's to Royſter's,	0 3	0 3
From William Black's to the oppoſite ſhore,	0 4	0 4
From Wade's, over Staunton, to the oppoſite ſhore,	0 3	0 3
From the land of John Ward, over Staunton, to his land oppoſite in the county of Bedford,	0 6	0 6
From Hunt's land to Abney's,	0 4	0 4
From Booker's to the oppoſite ſhore,	0 3	0 3
From Blanks's to Bruas's,	0 3	0 3
From Cobb's to the oppoſite ſhore,	0 3	0 3
From James Steward's to Thomas Steward's,	0 3	0 3
From Barkſdale's to James Hunt's,	0 3	0 3
From Simms's to Randolph's,	0 3	0 3
From Cargill's to Fouſhee's,	0 3	0 3
From the land of John Owen's, in the county of Pittſylvania, over Dan river to the land of Sylveſter Adams,	0 6	0 6
From Margaret Boyd's, over Dan river, to her land oppoſite,	0 3	0 3
From Col. Nathaniel Terry's to Fuqua's,	0 3	0 3
From Dix's to Green's	0 3	0 3
From Miller's to Legrand's,	0 3	0 3
From Jones's to Seldon's	0 3	0 3
From Coles's to Joſeph Fuqua's,	0 3	0 3
From the land of David Brandon, over Dan river, to the land of John Lawſon,	0 3	0 3
From the land of John Boyd, over Dan river, to the land of Patrick Boyd.	0 3	0 3
From the land of James Devore, in the county of Yohogania, over Monongalia, to the land of Joſeph Parkerſon,		

SECT. II. AND that ferries be kept, oppoſite to all the places hereby appointed, acroſs the rivers Rappahannock, Piankatank, York, James and Nottoway below the falls thereof; and the ſeveral county courts are impowered to appoint oppoſite ferries, where they ſhall judge it neceſſary, at all other places herein appointed, above the falls of the ſaid rivers, or acroſs any branches thereof; alſo on ſuch parts of the rivers Potowmack and Roanoake, or their branches, as have places hereby eſtabliſhed for ferries, where both ſides are within this commonwealth; and the ſeveral keepers of ſuch oppoſite ferries ſhall be intitled to the rates of ferriage herein allowed at the place, and be ſubject to all the regulations of this act. But this ſhall not extend to any ferry which by a former law is veſted on both ſides in any perſon or perſons: All which ferries ſhall remain ſubject to the regulations of the ſeveral acts of Aſſembly, by which they were reſpectively eſtabliſhed.

SECT. III. AND for the tranſportation of wheel carriages, tobacco, or live ſtocks, at either of the ferries hereby, or hereafter to be eſtabliſhed; the ferry keepers may reſpectively demand the rates following, to wit:

For every coach, chariot, or waggon, and the driver, the ſame as for ſix horſes.
For every four wheeled chaiſe, or phæton, and the driver, or cart, as for four horſes.
For every two wheeled riding carriage as for two horſes.
For every hogſhead of tobacco, or head of neat cattle, as for one horſe.
For every ſheep, goat, or lamb, one fifth part of the ferriage of one horſe.
For every hog one fourth part of the ferriage of one horſe.

SECT. IV. IF any ferry keeper ſhall demand and take from a paſſenger a greater rate than is herein allowed for ferriage, he or ſhe ſhall forfeit, for every offence, the ſum over charged, and ten ſhillings, to the party grieved, recoverable, with coſts, before any Juſtice of the Peace in the county where the offence ſhall be committed.

SECT. V. THE ſeveral county courts are hereby empowered to appoint a ferry over any river or creek, within their reſpective counties, where they ſhall judge the ſame convenient, and ſettle the rate of ferriage, and may contract with the keeper of ſuch ferry, or of any public ferry, within the county, for ſetting over the militia, on muſter days, and to make an allowance for the ſame, in their county levy.

SECT. VI. THE ſaid courts are alſo impowered and required to order and direct what boat or boats, and the number of hands which ſhall be kept at each ferry, appointed, or to be appointed, within their reſpective counties; and the owner of the land from whence the ferry is, or ſhall be, ſhall, within from the commencement of this act, give bond, with ſecurity, in the penalty of payable to the Juſtices of the ſaid court, and their ſucceſſors, with condition, that he or ſhe will duly cauſe ſuch ferry to be kept, according to law, and give immediate diſpatch to all paſſengers, public meſſengers and expreſſes when required. And if ſuch owner ſhall fail to give ſecurity, within the time aforeſaid, and, being ſummoned to appear at the county court, ſhall fail to appear, or appearing, ſhall refuſe, or be unable, to procure ſuch ſecurity, the court ſhall have power, upon the application of any other perſon, to order the ſheriff to ſummon a jury of twelve good and lawful men, to meet at the ferry landing; who, being ſworn by the ſheriff or under ſheriff attending, ſhall view and value an acre of land, to be laid off convenient to include the landing; and as little prejudicial as may be to the owner, and return their inquiſition to the next court; and thereupon, unleſs the proprietor ſhall then appear, enter into bond with ſecurity as aforeſaid, and pay down the coſts of the proceedings, the court may grant the ferry to the petitioner, upon his giving ſuch ſecurity, and paying down to the proprietor the valuation of the acre of land, of which the petitioner ſhall be from thenceforth ſeized in fee ſimple.

SECT. VII. ALL expreſſes, ſent by the Governor, or Commander in Chief, to any perſon or perſons, on public buſineſs, or ſent to the Governor, by the General Congreſs, the Commander in Chief of the American army, or Commanding Officer of any detachment thereof, or of any militia of this ſtate, in actual ſervice; or by any Field Officer of the militia, to the Governor, or to the Commanding Officer of the militia, in an adjacent county, to give intelligence of an invaſion, or inſurrection, or of the approach of an enemy, ſhall be deemed public expreſſes, and ferry free, in caſe the diſpatches, by ſuch expreſs, be directed, for public ſervice, and ſuch direction be ſigned by the perſon ſending the ſame.

SECT. VIII. ALL the men, attending public ferries, ſhall be free from county and public levies, from attendance at muſters, clearing highways, impreſſments and other ſervice of a like nature; and every ferry keeper ſhall be intitled to a licenſe for keeping ordinary, at his ferry, upon application to the county court, notwithſtanding there may be a ſufficient number of other ordinaries in the county.

SECT. IX. IF any perſon, other than a ferry keeper, ſhall, for reward, ſet any perſon or perſons, carriages, horſes, or ſtocks, over any river, or creek, whereon ferries are or ſhall be eſtabliſhed, he or ſhe ſo offending, ſhall forfeit and pay five pounds, for every offence, to the ferry keeper neareſt to the place where the offence ſhall be committed, to be recovered, with coſts, by action of debt, or information, in any court of record, wherein the ſame is cognizable; neither ſhall any perſon, for reward, ſet any perſon, carriage, horſes, or ſtocks, over the Bay of Cheſapeak, from Northampton county, or from Accomack county, other than the inhabitants thereof to York, Hampton, or Norfolk towns, or any other place, adjacent thereto, under the like penalty, to the keeper of the ferry from Hungar's to the ſaid towns, to be recovered as aforeſaid.

SECT. X. THE Juſtices of the county of Surry, at the charge of the county, ſhall cauſe to be conſtantly kept and maintained a bridge, over Hog Iſland creek; for the convenience of paſſing to and from the ferry at Fort Point, on that Iſland, under the penalty of one thouſand pounds of tobacco, upon every Juſtice neglecting, or refuſing, to keep and maintain ſuch bridge in ſufficient repair.

CHAP. XLVIII.

A BILL concerning Mill Dams and other obſtructions of Water Courſes.

SECTION I. BE it enacted by the General Aſſembly, that when any perſon owning lands on one ſide of any watercourſe the bed whereof belongeth to himſelf, or to the commonwealth, and deſiring to build a water griſt mill on ſuch lands, and to erect a dam acroſs the ſame, for working the ſaid mill, ſhall not himſelf have the fee ſimple property in the lands on the oppoſite ſide thereof, againſt which he would abutt his ſaid dam, he ſhall make application for a writ of ad quod damnum to the court of the county wherein the lands propoſed for the abuttment are, having given ten days previous notice to the proprietor thereof, if he be to be found in the county, and if not, then to his agent therein, if any he hath, which court ſhall thereupon order their clerk to iſſue ſuch writ, to be directed to the ſheriff commanding him to ſummon and impannel twelve fit perſons, to meet upon the lands ſo propoſed for the abuttment, on a certain day, to be named by the court and inſerted in the ſaid writ, of which notice ſhall be given by the ſheriff to the ſaid proprietor, or his agent, as before directed, if neither of them were preſent in court at the time of the order made; which freeholders, taken, ſhall be charged, by the ſaid ſheriff, impartially and to the beſt of their ſkill and judgment, to view the ſaid lands ſo propoſed for an abuttment, and to locate and circumſcribe by certain metes and bounds one acre thereof, having due regard therein to the intereſts of both parties, and to appraiſe the ſame according to its true value; to examine the lands above and below, of the property of others, which may probably be overflowed, and ſay to what damage it will be of to the ſeveral proprietors, and whether the manſion houſe, of any ſuch proprietor, or the offices, curtilage, or garden thereunto immediately belonging, or orchards, will be overflowed; to enquire whether and in what degree fiſh of paſſage and ordinary navigation will be obſtructed, whether by any and by what means ſuch obſtruction may be prevented; and whether, in their opinion, the health of the neighbours will be annoyed by the ſtagnation of the waters. And the inqueſt ſo made and ſealed, by the ſaid jurors, together with the writ, ſhall be returned, by the ſaid ſheriff, to the ſucceeding court; who ſhall thereupon order ſummonſes to be iſſued to the ſeveral perſons, proprietors or tenants, of the lands ſo located, or found liable to damage, if they be to be found within the county; and if not, then to their agents therein, if any they have, to ſhew cauſe why the party applying ſhould not have leave to build the ſaid mill and dam. And in like manner if the perſon propoſing to build ſuch mill and dam ſhall have the fee ſimple property in the lands on both ſides the ſtream, yet application ſhall be made to the court of the county, wherein the mill houſe will ſtand, for a writ to examine, as aforeſaid, what lands may be overflowed, and ſay to what damage it will be of to the ſeveral proprietors, and whether the manſion houſe, of any ſuch proprietor, or the offices, curtilage, or garden, thereto immediately belonging, or orchards, will be overflowed; alſo whether and in what degree fiſh of paſſage and ordinary navigation will be obſtructed thereby, whether by any and by what means ſuch obſtruction may be prevented: and whether in their opinion the health of the neighbours will be annoyed by the ſtagnation of waters: Which writ ſhall be directed, executed, and returned as preſcribed in the former caſe. And if on ſuch inqueſt, or on other evidence, it ſhall appear, to the court, that the manſion houſe, of any proprietor, or the offices, curtilage, or garden, thereto immediately belonging, or orchards, will be overflowed, or the health of the neighbours be annoyed they ſhall not give leave to build the ſaid mill and dam, but if none of theſe injuries are likely to enſue, they ſhall then proceed to conſider whether, all circumſtances weighed, it be reaſonable that ſuch leave ſhould be given, and ſhall give or not give it accordingly: And if given, they ſhall lay the party applying under ſuch conditions for preventing the obſtruction, if any there will be, of fiſh of paſſage, and ordinary navigation as to them ſhall ſeem right.

SECT. II. AND if the party applying obtain leave to build the ſaid mill and dam, he ſhall upon paying reſpectively, to the ſeveral parties intitled, the value of the acre located, and the damages which the jurors find will be done by overflowing the lands above or below, become ſeized in fee ſimple of the ſaid acre of land. But if he ſhall not, within one year thereafter, begin to build the ſaid mill and finiſh the ſame in three years, and afterwards continue it in good repair for public uſe, or in caſe the ſaid mill or dam be deſtroyed, if he ſhall not begin to rebuild it within one year after ſuch deſtruction, and finiſh it within three years, the ſaid acre of land ſhall revert to the former proprietor and his heirs; unleſs at the time of ſuch deſtruction of the ſaid mill or dam the owner thereof be an infant, feme coverte, impriſoned, or of unſound mind, in which caſe he ſhall be allowed the ſame terms for beginning and completing the ſaid mill or dam after ſuch diſability removed.

SECT. III. THE inqueſt of the ſaid jurors nevertheleſs, or opinion of the court, ſhall not bar any proſecution, or action, which any perſon would have had in law, had this act never been made, other than for ſuch injuries as were actually foreſeen and eſtimated by the ſaid jury.

SECT. IV. IT ſhall be lawful for the owner, or tenant, of any ſuch mill, or of any other griſt mill, to take for toll one eighth part, and no more, of all grain of which the remaining part ſhall be ground into meal, and one ſixteenth part, and no more, of that the remainder of which ſhall be ground into hominy or malt.

SECT. V. NO owner or tenant, of any mill, not having fifty acres of land adjoining thereto ſhall keep any ſwine unincloſed at ſuch mill, on pain that the ſame ſhall be liable to be taken and converted to his own uſe, by the proprietor or tenant of any adjacent lands, or by any other perſon authoriſed by them.

SECT. VI. WHERE the owner of any mill, now ſtanding or licenſed to be built, hath by any act of Aſſembly been compelled to make locks, ſlopes, or openings for navigation or the paſſage of fiſh, the ſame ſhall be continued under the conditions impoſed by ſuch act, and ſhall be deemed ſufficient in law ſo long as the dam now ſtanding or building ſhall remain: But it ſhall not be lawful to rebuild ſuch dam in future but on enquiry by jury into the obſtructions of fiſh and navigation and the means of preventing the ſame, and the final order of the court, to be applied for and conducted in the manner before directed in other caſes.

SECT. VII. IT ſhall not be lawful for any perſon to erect, or fix, in any watercourſe, any dam, hedge, weir, ſeine, drag, or other ſtoppage whereby navigation, or the paſſage of fiſh, may be obſtructed, ſave only for the purpoſe of working ſome machine or engine uſeful to the public, in which caſes the ſame proceedings ſhall be had, as are before directed, in the caſe of a water griſt mill, or for the purpoſe of a water griſt mill before provided for: And where any ſuch are now ſtanding, or ſhall hereafter be erected, or fixed, the owner, or tenant, of the lands adjacent thereto (whether the ſame were erected or fixed by himſelf or another) ſhall cauſe it to be abated. And whoſo offendeth herein ſhall be deemed guilty of a nuiſance.

SECT. VIII. THE bed of all tide waters within the low water mark ſhall be veſted in the commonwealth, and ſhall not be granted to any, except ſuch part thereof as ſhall be capable of being reclaimed from the water, and ſhall be actually reclaimed by the grantee within three years after the paſſing of this act; in all caſes of grants heretofore made, and in all caſes of future grants within three years after the date thereof. And the channel of all other watercourſes, capable of being navigated by any loaded craft, great or ſmall, ſhall be open to the citizens of this commonwealth, for the purpoſe of navigation, notwithſtanding the bed thereof ſhall have been granted to any.

CHAP. XLIX.

A BILL for unlading Ballaſt and burial of dead Bodies from on board Ships.

SECTION I. BE it enacted by the General Aſſembly, that the court of every county, adjacent to any navigable river or creek, ſhall from time to time, as vacancies happen, appoint one or more ballaſt maſters, reſiding near to the places where veſſels uſually ride in ſuch river or creek, to be overſeers and directors of the delivery and unloading of ballaſt from on board any ſhip or veſſel within a certain diſtrict, to be by them aſcertained.

SECT. II. EVERY ballaſt maſter ſo appointed, upon receiving notice from the maſter or chief officer, on board of any ſhip or veſſel within his diſtrict, that ballaſt is to be diſcharged from ſuch veſſel ſhall go on board the ſame and attend until the whole ballaſt is delivered, which he ſhall ſee brought on ſhore and laid at ſome convenient place near the veſſel, where it may not obſtruct navigation nor be waſhed into the channel; ſhall thereupon give ſuch maſter or officer a certificate that the ballaſt hath been duly unladen from ſuch veſſel.

SECT. III. EVERY ballaſt maſter failing to do his duty, according to this act, ſhall forfeit twenty pounds for each default, in which caſe, or if there be no ballaſt maſter, the naval officer of the diſtrict, ſhall, under the like penalty, perform the ſame duty.

SECT. IV. EVERY maſter or chief officer of a ſhip, or veſſel, having ballaſt to unlade, ſhall give notice in writing, of the time he purpoſes to land the ſame, to the ballaſt maſter of the diſtrict; and ſhall produce to the naval officer, at the time of his clearing out, a certificate of his having unladen his ballaſt according to this act: And if any maſter or chief officer, on board of any ſhip or veſſel, ſhall preſume to land or caſt over board any ballaſt therefrom, without giving ſuch notice, or contrary to the orders he ſhall receive from the ballaſt maſter of the diſtrict, or ſhall fail to produce a certificate, of his having duly landed his ballaſt to the naval officer, at the time of his clearing out, he ſhall forfeit fifty pounds for every offence or failure; and, in any ſuit to be brought for the ſaid penalty, the clerk ſhall indorſe on the writ, that bail is to be required, and the court may rule the defendant to give ſpecial bail if they ſee cauſe ſo to do.

SECT. V. WHEN any perſon ſhall die on board of any ſhip or veſſel, within this ſtate, the maſter thereof ſhall cauſe the dead body to be brought on ſhore and there buried, at leaſt four feet deep above high water mark, or be ſubject to the penalty of fifty pounds; in any ſuit for which, the defendant may be ruled to give ſpecial bail, and the clerk ſhall indorſe on the writ that bail is required.

CHAP. L.

A BILL concerning Public Store-Houſes.

SECTION I. BE it enacted by the General Aſſembly, that the courts of the reſpective counties, ſituate upon any navigable river or creek, may appoint any place or places within the county, which to them ſhall appear convenient and neceſſary, for the lading and unlading of goods or merchandiſe, which, together with ſuch as have been heretofore ſo appointed ſhall be deemed public landings: And where ſufficient ſtore-houſes are not already built at, or convenient to ſuch landings, the courts ſhall order ſuch houſe or houſes to be erected by the proprietor of the land, at his expence, for the commodious reception and ſafe keeping of all goods and merchandiſe brought thither by land or water, which ſhall be accordingly built by ſuch proprietor, within twelve months after the order made, and ſhall be accounted public ſtore-houſes.

SECT. II. IF the proprietor of any ſtore-houſe, heretofore eſtabliſhed, ſhall refuſe to ſuffer the ſame to be uſed for that purpoſe; or if the owner of any land on which a public ſtore-houſe ſhall be ordered to be built, ſhall fail to build the ſame, within a year after ſuch order, or ſhall refuſe to do it; in either caſe it ſhall be lawful for the court, and they are hereby required to order the ſheriff to ſummon a jury of freeholders, to meet at the place appointed for ſuch ſtore-houſe, who, being ſworn by ſuch ſheriff, ſhall value and lay off half an acre of land, whereon to build a ſtore-houſe, or on which the houſe already built ſhall ſtand, as the caſe ſhall be, and return their inquiſition to the court, there to be recorded; and thereupon it ſhall be lawful for the court to give liberty to any other perſon to build, or keep, ſuch ſtore-houſe, and upon ſuch perſon's paying down the valuation to the owner, he ſhall be, from thenceforth, ſeized in fee of the ſaid half acre of land, ſo long as

he, his heirs, or aſſigns, ſhall keep and maintain ſuch convenient ſtore-houſe thereon, as the court ſhall from time to time direct, but on his failing therein the land ſhall revert to the former proprietor, or his heirs, or paſs to ſuch other perſon as ſhall undertake, with the approbation of the court, to build and maintain ſuch ſtore-houſe. But it ſhall not be lawful for the jury ſo to lay off the ſaid half acre of land as to include the manſion houſe of the proprietor, or the offices, curtilage, or garden, thereunto immediately belonging, or orchards.

SECT. III. NO owner or tenant of any ſuch half acre of land, not having fifty acres adjoining, ſhall keep thereon any ſwine, unincloſed, on pain that the ſame ſhall be liable to be taken and converted to his own uſe by the proprietor or tenant of any adjacent lands, or by any other perſon authoriſed by them.

SECT. IV. THE proprietor ſhall conſtantly keep and maintain ſuch ſtore-houſe in repair, for the reception of all goods and merchandiſe brought to the ſame, and ſhall be intitled to the following rates and prices of ſtorage, to be paid before the removal or delivery of the goods, that is to ſay; for every hogſhead of tobacco brought to a ſtore-houſe, above the falls of any river, eight pence; for every caſk containing ſixty gallons, and every bale or parcel of goods of the like or greater bulk, one ſhilling for the firſt day, or any time not exceeding three months, and one penny for every month above three; for every caſk under ſixty gallons, and every bale or parcel of the like or leſs bulk than ſuch a caſk, ſix pence; and one penny as aforeſaid; for ſalt, or grain, not packed in caſks, after the rate of one penny a buſhel for the firſt day or three months, and a farthing a buſhel for every month after the ſaid three; and for every bar or pig of iron one half penny.

SECT. V. EVERY parcel of ſalt or grain brought looſe, ſhall be kept, in ſeparate heaps, unmixed with any other, and the whole delivered as received; ſave that there ſhall be an allowance to the ſtore-houſe keeper for any loſs which may happen by diſſolution, rats or other unavoidable accident, not exceeding five per centum for the firſt three months, and one per centum for every month it ſhall lie above three, ſo as that the whole be not more than ten per centum. If any perſon, not being the proprietor or keeper of a public ſtore-houſe, ſhall demand or receive ſtorage, or other reward, for goods landed or lodged within one mile of a public ſtore-houſe on the ſame ſide of the river or creek, he ſhall forfeit five pounds for every offence to the owner or keeper of the neareſt public ſtore-houſe, to be recovered with coſts.

SECT. VI. EVERY proprietor of a public ſtore-houſe, who, or whoſe agent, ſhall refuſe to take in any goods or merchandiſe, brought to ſuch houſe, ſhall be liable to the action of the party grieved for all damages ſuſtained by ſuch refuſal.

SECT. VII. THE owner or keeper of every ſtore-houſe ſhall, at the time of his receiving any goods or merchandiſe therein, give a receipt for the ſame in writing, wherein ſhall be mentioned the marks, numbers and condition of each parcel of ſuch goods; and ſhall enter the ſame fairly in a book to be kept for that purpoſe, to which all perſons concerned may have recourſe at any time: And every ſuch owner or keeper refuſing or failing to make ſuch entry, to give ſuch receipt, for to give a copy of ſuch entry when required (for which copy he may receive ſix pence and no more) ſhall forfeit twenty ſhillings for every failure or refuſal, recoverable with coſts before a Juſtice of Peace.

CHAP. LI.

A BILL *concerning Slaves.*

SECTION I. BE it enacted by the General Aſſembly, that no perſons ſhall, henceforth, be ſlaves within this commonwealth, except ſuch as were ſo on the firſt day of this preſent ſeſſion of Aſſembly, and the deſcendants of the females of them.

SECT. II. NEGROES and mulattoes which ſhall hereafter be brought into this commonwealth and kept therein one whole year, together, or ſo long at different times as ſhall amount to one year, ſhall be free. But if they ſhall not depart the commonwealth within one year thereafter they ſhall be out of the protection of the laws.

SECT. III. THOSE which ſhall come into this commonwealth of their own accord ſhall be out of the protection of the laws; ſave only ſuch as being ſeafaring perſons and navigating veſſels hither, ſhall not leave the ſame while here more than twenty four hours together.

SECT. IV. IT ſhall not be lawful for any perſon to emancipate a ſlave but by deed executed, proved and recorded as is required by law in the caſe of a conveyance of goods and chattels, on conſideration not deemed valuable in law, or by laſt will and teſtament, and with the free conſent of ſuch ſlave, expreſſed in preſence of the court of the county wherein he reſides: And if ſuch ſlave, ſo emancipated, ſhall not within one year thereafter, depart the commonwealth, he ſhall be out of the protection of the laws. All conditions, reſtrictions and limitations annexed to any act of emancipation ſhall be void from the time ſuch emancipation is to take place.

SECT. V. IF any white woman ſhall have a child by a negro or mulatto, ſhe and her child ſhall depart the commonwealth within one year thereafter. If they fail ſo to do, the woman ſhall be out of the protection of the laws, and the child ſhall be bound out by the Aldermen of the county, in like manner as poor orphans are by law directed to be, and within one year after its term of ſervice expired ſhall depart the commonwealth, or on failure ſo to do, ſhall be out of the protection of the laws.

SECT. VI. WHERE any of the perſons before deſcribed ſhall be diſabled from departing the commonwealth by grievous ſickneſs, the protection of the law ſhall be continued to him until ſuch diſability be removed: And if the county ſhall in the mean time, incur any expence in taking care of him, as of other county poor, the Aldermen ſhall be intitled to recover the ſame from his former maſter, if he had one, his heirs, executors and adminiſtrators.

SECT. VII. NO negro or mulatto ſhall be a witneſs except in pleas of the commonwealth againſt negroes or mulattoes, or in civil pleas wherein negroes or mulattoes alone ſhall be parties.

SECT. VIII. NO ſlave ſhall go from the tenements of his maſter, or other perſon with whom he lives, without a paſs, or ſome letter or token whereby it may appear that he is proceeding by authority from his maſter, employer, or overſeer: If he does, it ſhall be lawful for any perſon to apprehend and carry him before a Juſtice of the Peace, to be by his order puniſhed with ſtripes, or not, in his diſcretion.

SECT. IX, NO ſlave ſhall keep any arms whatever, nor paſs, unleſs with written orders from his maſter or employer, or in his company, with arms from one place to another. Arms in poſſeſſion of a ſlave contrary to this prohibition ſhall be forfeited to him who will ſeize them.

SECT. X. RIOTS, routs, unlawful aſſemblies, treſpaſſes and ſeditious ſpeeches by a negro or mulatto ſhall be puniſhed with ſtripes at the diſcretion of a Juſtice of the Peace; and he who will may apprehend and carry him before ſuch Juſtice.

CHAP. LII.

A BILL *concerning Servants.*

SECTION I. BE it enacted by the General Aſſembly, that all white perſons, not being citizens of any of the confederating ſtates of America, who ſhall come into this commonwealth under contract to ſerve another in any trade, or occupation, ſhall be compellable to perform ſuch contract ſpecifically during the term thereof, or during ſo much of the ſame as ſhall not exceed ſeven years. Infants under the age of fourteen years, brought in under the like contract, entered into with the conſent of their father or guardian, ſhall ſerve till their age of twenty one years only, or for ſuch ſhorter term as the ſaid contract ſhall have fixed.

SECT. II. THE ſaid ſervants ſhall be provided, by their maſter, with wholeſome and ſufficient food, clothing and lodging; and at the end of their ſervice, if they ſhall not have contracted for any reward, other than tranſportation, food, clothing and lodging, ſhall receive from him one new and complete ſuit of clothing, ſuited to the ſeaſon of the year, to wit, a coat, waiſtcoat, pair of breeches and ſhoes, two pair of ſtockings, two ſhirts, a hat and blanket.

SECT. III. THE benefit of the ſaid contract of ſervice ſhall be aſſignable by the maſter to any perſon to whom the ſervant ſhall, in the preſence of a Juſtice of the Peace, freely conſent that it ſhall be aſſigned, the ſaid Juſtice atteſting ſuch free conſent in writing; and ſhall alſo paſs to the executors, adminiſtrators, and legatees of the maſter.

SECT. IV. ANY ſuch ſervant being lazy, diſorderly, guilty of miſbehaviour to his maſter or in his maſter's family, ſhall be corrected by ſtripes on order from the court of the county wherein he reſides, or refuſing to work ſhall be compelled thereto in like manner; and moreover ſhall ſerve two days for every one he ſhall have ſo refuſed to ſerve, or ſhall otherwiſe have loſt without ſufficient juſtification. All neceſſary expences incurred by any maſter for apprehending and bringing home any abſconding ſervant ſhall be repaid by further ſervice after ſuch rates as the court ſhall direct; unleſs ſuch ſervant ſhall give ſecurity, to be approved of by the court, for repayment in money within ſix months after he ſhall be free from ſervice, and ſhall accordingly pay the ſame.

SECT. V. IF any maſter ſhall fail in the duties preſcribed by this act, or ſhall be guilty of injurious demeanor towards his ſervant it ſhall be redreſſed on motion by the court of the county wherein the ſervant reſides, by immediate diſcharge from ſervice, if the injury were groſs, or by a ſpecific order for a change in his demeanor, and a diſcharge from ſervice if ſuch order be diſobeyed.

SECT. VI. ALL contracts between maſter and ſervant during the time of ſervice ſhall be void.

CHAP. LIII.

A BILL *for apprehending and ſecuring Runaways.*

SECTION I. BE it enacted by the General Aſſembly, that any perſon may apprehend a ſervant or ſlave, ſuſpected to be a runaway, and carry him before a Juſtice of Peace, who, if to him the ſervant or ſlave appear, by the oath of the apprehender, to be a runaway, ſhall give a certificate of ſuch oath, and the diſtance, in his opinion, between the place where the runaway was apprehended and that from whence he fled; and the apprehender ſhall thereupon carry the runaway to the laſt mentioned place, or deliver him to the owner, or ſome other authoriſed to receive him, and ſhall be intitled to and for every mile of ſuch diſtance as he ſhall neceſſarily carry him, to be paid by the owner. The runaway, if the owner be not known, or reſide not in the commonwealth, ſhall be, by warrant of the Juſtice, committed to the jail of his county, the keeper whereof ſhall forthwith cauſe an advertiſement, with a deſcription of the runaway's perſon and wearing apparel, to be ſet up at the door of the court-houſe, and of every church in his county within ten miles. If the owner claim not within two months thereafter, the ſheriff ſhall publiſh a like advertiſement in the Virginia Gazette for three months; and ſhall hire the runaway out during ſuch time and for ſuch wages as his county court ſhall approve, having put an iron collar, ſtamped with the letter F, round his neck, and out of the wages pay the reward for apprehending, and the expences incurred on his account; but he ſhall deliver the runaway, even before the time expire, and pay the balance of the wages received, if any, to him who ſhall claim, and who, having proved before the court of ſome county, that he had loſt ſuch an one as was deſcribed in the advertiſement, and having there given ſecurity to indemnify the ſheriff, ſhall produce the clerk's certificate of ſuch proof made and ſecurity given, prove, by his own or another's oath, the runaway, when ſhewn to him, to be the ſame that was ſo loſt, and pay ſo much as the expences aforeſaid ſhall exceed the wages. The runaway being a ſlave, after the end of one year from the laſt advertiſement, ſhall be ſold, and the proceeds of the ſale, with the balance of the wages, paid to the public Treaſurer, for the uſe of the owner, proving his property at any future time, or, otherwiſe, for the uſe of the commonwealth. If the runaway die in jail the expences ſhall be defrayed by the public. The runaway, if he ſhall have croſſed the Bay of Cheſapeak, ſhall be delivered to the ſheriff of ſome county, bounded thereby, who ſhall tranſport him to the other ſide, and cauſe him to be put into the hands of a conſtable, to be, by conſtable to conſtable, conveyed to the owner, who ſhall pay to the ſheriff and to the conſtable for every mile he ſhall neceſſarily travel in performing this duty.

CHAP. LIV.

A BILL *declaring what Perſons ſhall be deemed Mulattoes.*

SECTION I. BE it enacted by the General Aſſembly, that every perſon, of whoſe grandfathers or grandmothers any one is, or ſhall have been, a negro, although all his other progenitors, except that deſcending from the negro, ſhall have been white perſons, ſhall be deemed a mulatto; and ſo every perſon, who ſhall have one fourth part or more of negro blood, ſhall, in like manner be deemed a mulatto.

CHAP. LV.

A BILL *declaring who ſhall be deemed Citizens of this Commonwealth.*

SECTION I. BE it enacted by the General Aſſembly, that all white perſons born within the territory of this commonwealth and all who have reſided therein two years next before the paſſing of this act, and all who ſhall hereafter migrate into the ſame; and ſhall before any court of record give ſatisfactory proof by their own oath or affirmation, that they intend to reſide therein, and moreover

ſhall give aſſurance of fidelity to the commonwealth; and all infants whereſoever born, whoſe father, if living, or otherwiſe, whoſe mother was, a citizen at the time of their birth, or who migrate hither, their father, if living, or otherwiſe their mother becoming a citizen, or who migrate hither without father or mother, ſhall be deemed citizens of this commonwealth, until they relinquiſh that character in manner as herein after expreſſed: And all others not being citizens of any the United States of America, ſhall be deemed aliens. The clerk of the court ſhall enter ſuch oath of record, and give the perſon taking the ſame a certificate thereof, for which he ſhall receive the fee of one dollar. And in order to preſerve to the citizens of this commonwealth, that natural right, which all men have of relinquiſhing the country, in which birth, or other accident may have thrown them, and, ſeeking ſubſiſtance and happineſs whereſoever they may be able, or may hope to find them: And to declare unequivocably what circumſtances ſhall be deemed evidence of an intention in any citizen to exerciſe that right, it is enacted and declared, that whenſoever any citizen of this commonwealth, ſhall by word of mouth in the preſence of the court of the county, wherein he reſides, or of the General Court, or by deed in writing, under his hand and ſeal, executed in the preſence of three witneſſes, and by them proved in either of the ſaid courts, openly declare to the ſame court, that he relinquiſhes the character of a citizen, and ſhall depart the commonwealth; or whenſoever he ſhall without ſuch declaration depart the commonwealth and enter into the ſervice of any other ſtate, not in enmity with this, or any other of the United States of America, or do any act whereby he ſhall become a ſubject or citizen of ſuch ſtate, ſuch perſon ſhall be conſidered as having exerciſed his natural right of expatriating himſelf, and ſhall be deemed no citizen of this commonwealth from the time of his departure. The free white inhabitants of every of the ſtates, parties to the American confederation, paupers, vagabonds and fugitives from juſtice excepted, ſhall be intitled to all rights, privileges, and immunities of free citizens in this commonwealth, and ſhall have free egreſs, and regreſs, to and from the ſame, and ſhall enjoy therein, all the privileges of trade, and commerce, ſubject to the ſame duties, impoſitions and reſtrictions as the citizens of this commonwealth. And if any perſon guilty of, or charged with treaſon, felony, or other high miſdemeanor, in any of the ſaid ſtates, ſhall flee from juſtice and be found in this commonwealth, he ſhall, upon demand of the Governor, or Executive power of the ſtate, from which he fled, be delivered up to be removed to the ſtate having juriſdiction of his offence. Where any perſon holding property, within this commonwealth, ſhall be attainted within any of the ſaid ſtates, parties to the ſaid confederation, of any of thoſe crimes, which by the laws of this commonwealth ſhall be puniſhable by forfeiture of ſuch property, the ſaid property ſhall be diſpoſed of in the ſame manner as it would have been if the owner thereof had been attainted of the like crime in this commonwealth.

CHAP. LVI.

A BILL concerning Aliens.

SECTION I. BE it enacted by the General Aſſembly, that all manner of aliens, of whatſoever nation or country they be, being in amity with the United States of America, together with their families, agents and ſervants whom they bring, ſhall be welcome, and freely may come within the commonwealth and there be converſant to merchandiſe and tarry, or travel, as long as them liketh, and they bear themſelves well and with their families, agents and ſervants whom they bring and their goods ſhall be ſuffered peaceably to return into their proper country or elſewhere, without diſturbance or impeachment of any.

SECT. II. IN caſe that war ariſe betwixt the United States of America, and any foreign ſtate, the merchants and people of ſuch ſtate, their families, agents and ſervants aforeſaid, found in this commonwealth, at the beginning of the war, ſhall not be attached, either in their body or goods, becauſe of ſuch war, but ſhall be warned by proclamation from the Governor, taking thereon the advice of the Council of State, that they ſhall depart the commonwealth with their families, agents and ſervants aforeſaid, and their goods, freely, within forty days after the proclamation made and publiſhed. In the meantime they ſhall not be impeached, nor let of their paſſage, or of making their profit of the ſame merchandiſes if they will ſell them. And in caſe that for default of wind, or of ſhip, or for ſickneſs, or for other evident cauſe they cannot depart the commonwealth within ſo ſhort a time, then they ſhall have other forty days, or ſo much more as the neceſſity of their affairs may require, and the Governor and Council may think it ſafe to allow, and in the meantime may ſell their merchandiſe as afore is ſaid.

SECT. III. BUT if before their departure credible intelligence ſhall be brought to the Governor, that the merchants or people of any of the American States be evil treated in the land making war againſt us, then they ſhall be attached without harm of body, or goods, until the truth of the matter be certainly known unto the Governor and Council of State: And if the merchants and people of the American States be well treated there, theirs ſhall be likewiſe with us: And if otherwiſe, theirs ſhall be treated, or demeaned, within the commonwealth, in the manner, form, and condition, as the merchants or people of the American States be treated, or demeaned, in the land making war againſt us.

CHAP. LVII.

A BILL declaring that none ſhall be condemned without Trial, and that Juſtice ſhall not be ſold or deferred.

SECTION I. BE it enacted by the General Aſſembly, that no freeman ſhall be taken or impriſoned, or be diſſeiſed of his freehold, or liberties, or free cuſtoms, or be outlawed, or exiled, or any otherwiſe deſtroyed, nor ſhall the commonwealth paſs upon him, nor condemn him but by lawful judgment of his peers, or by the laws of the land. Juſtice or right ſhall not be ſold, denied or deferred to no man.

CHAP. LVIII.

A BILL directing what Priſoners ſhall be let to Bail.

SECTION I. FOR aſcertaining in what caſes perſons apprehended on ſuſpicion of felony ſhall, or ſhall not, be admitted to bail, Be it enacted by the General Aſſembly that thoſe ſhall be let to bail who are apprehended for any crime not puniſhable in life or limb: And if the crime be ſo puniſhable, but only a light ſuſpicion of guilt fall on the party he ſhall in like manner, be bailable: But if the crime be puniſhable in life or limb, or if it be manſlaughter, and there be good cauſe to believe the party guilty thereof, he ſhall not be admitted to bail.

SECT. II. NO perſon ſhall be bailed after conviction of any felony.

SECT. III. IF any Juſtice let any go at large, on bail, who is not bailable, or refuſe to admit to bail any who have right to be ſo admitted, after they ſhall have offered ſufficient bail; or require exceſſive bail, he ſhall be puniſhed by imprisonment and amercement at the diſcretion of a jury.

CHAP. LIX.

A BILL directing the mode of ſuing out and proſecuting writs of Habeas Corpus.

SECTION I. BE it enacted by the General Aſſembly, that whenſoever a habeas corpus ſhall be ſerved, by delivering it to the officer or other perſon to whom it is directed; or by leaving it at the jail or priſon in which the party ſuing it out is detained; unleſs the warrant of committment plainly and ſpecially expreſs the ſame to have been for treaſon or felony; if the charges of bringing the priſoner, to be aſcertained by the Court or Judge who awarded the writ, and thereon endorſed, not exceeding twelve pence per mile, be paid or tendered, and ſecurity to pay the charges of carrying him back, in caſe he be remanded, and that he will not eſcape by the way, be given by his own or any other perſon's bond; the officer or his deputy within three days after ſuch ſervice, or, if the priſoner is to be brought more than twenty miles, within ſo many days more as will be equal to one day, for every twenty miles of ſuch further diſtance, ſhall make return of the writ and bring the body of the priſoner, or cauſe it to be brought, before the proper Judge or Judges according to the command thereof, and ſhall then likewiſe certify the true cauſes of his detainer or impriſonment: Every ſuch writ ſhall be ſigned by him who awards it; and if any perſon ſhall be, or ſtand committed or detained as aforeſaid, for any crime, unleſs it be for treaſon or felony plainly expreſſed in the warrant of committment in the vacation time, the priſoner, not being convict, or in execution by legal proceſs, or any one on his behalf may appeal and complain to any Judge of the High Court of Chancery, or General Court, who at the requeſt of ſuch priſoner, or other perſon on his behalf, atteſted by two witneſſes preſent at the delivery thereof, is hereby authoriſed, upon view of a copy of the warrant of committment, or detainer; or otherwiſe, upon affidavit made, that ſuch copy was denied to be given by him in whoſe cuſtody the priſoner is detained, to award and grant a habeas corpus, under the ſeal of the ſaid court, to be directed to the officer in whoſe cuſtody the party committed or detained ſhall be returnable immediately before the ſaid Judge, or any other Judge of one of the ſaid courts; and upon ſervice thereof, as aforeſaid, the officer, or his deputy, in whoſe cuſtody the party is ſo committed or detained, ſhall, within the times before reſpectively limitted, bring the priſoner before the court, or one of the Judges thereof, before whom the writ is made returnable; or in caſe of his abſence before any other of them, with the return of the writ and the true cauſes of the committment and detainer; and thereupon the Judge, before whom the priſoner ſhall be brought, ſhall, within two days thereafter diſcharge him from impriſonment, taking his recognizance, with ſurety, in any ſum according to the diſcretion of the Judge, having regard to the circumſtances of the priſoner and nature of the offence, for his appearance in the General Court the term following, or in ſome other court where the offence is properly cognizable, as the caſe ſhall require; and then ſhall certify the ſaid writ with the return thereof and the ſaid recognizance into the ſaid court, where ſuch appearance is to be made, unleſs it ſhall appear to the Judge that the party ſo committed is detained upon a legal proceſs, order or warrant, out of ſome court that hath juriſdiction of criminal matters; or by ſome warrant ſigned and ſealed, with the hand and ſeal of any of the ſaid Judges, or ſome Juſtice of the Peace, for ſuch matters, or offences, for the which, by the law, the priſoner is not bailable: If any perſon ſhall have wilfully neglected, by the ſpace of two terms after his impriſonment, to pray a habeas corpus for his enlargement, ſuch writ ſhall not be granted to him, in vacation, in purſuance of this act. Any officer neglecting or refuſing to make the return aforeſaid, or to bring the body of the priſoner, according to the command of the writ within the time aforeſaid, or not delivering a true copy of the warrant of committment and detainer within ſix hours after demand thereof made, to the priſoner, or perſon demanding it on his behalf, which copy the officer, or his deputy, is hereby required to deliver; ſhall forfeit to the priſoner one hundred pounds, to recover which, the right of action ſhall not ceaſe by the death of either or both the parties. No perſon who ſhall have been delivered upon a habeas corpus, ſhall afterwards be impriſoned or committed for the ſame offence, otherwiſe than by the order or proceſs of the court wherein he ſhall be bound by recognizance to appear, or of ſome other court having juriſdiction of the cauſe.

SECT. II. A citizen of this commonwealth committed to priſon, in cuſtody of an officer, for any criminal matter, ſhall not be removed from thence into the cuſtody of another officer, unleſs it be by habeas corpus, or ſome other legal writ; or where the priſoner ſhall be delivered to the conſtable or other inferior officer, to be carried to ſome common jail, or ſhall be ſent by warrant of an Alderman to ſome common work-houſe; or ſhall be removed from one place to another within the ſame county, in order to his diſcharge, or trial, in due courſe of law; or in caſe of ſudden fire or infection, or other neceſſity; or where the priſoner ſhall be charged by affidavit with treaſon or felony, alledged to be done in any of the other United States of America, in which laſt caſe he ſhall be ſent thither, in cuſtody, by order of the General Court, or warrant of Judges thereof, in vacation time, or may be bound by recognizance with ſureties before them to appear there, whichſoever ſhall ſeem moſt proper, if the ſaid court or Judges, upon conſideration of the matter, ſhall think he ought to be put upon his trial. Any perſon as aforeſaid may move for, and obtain, his habeas corpus, as well out of the High Court of Chancery, as out of the General Court, and if any Judge of either of the ſaid courts, in the vacation time, upon view of the copy of the warrant of committment, or detainer, or upon affidavit made that ſuch copy was denied as aforeſaid, ſhall refuſe any writ of habeas corpus by this act required to be granted, being moved for as aforeſaid, ſuch Judge ſhall be liable to the action of the party grieved.

CHAP. LX.

A BILL concerning Guardians, Infants, Maſters, and Apprentices.

SECTION I. BE it enacted by the General Aſſembly, that any father, even if he be not twenty one years old, may, by deed, or laſt will and teſtament, either of them being executed in preſence of two creditable witneſſes, grant or deviſe the cuſtody and tuition of his child, which had never been married, although it be not born, during any part of the infancy of ſuch child, to whomſoever he will; and ſuch grant or deviſe, heretofore or hereafter to be made, ſhall give the grantee or deviſee the ſame power over the perſon of the child, as a guardian in common ſocage hath, and authoriſe him, by action of raviſhment of ward, or treſpaſs, to recover the child, with damages for the wrong-

ful taking or detaing him or her, for his or her uſe, and, for the ſame uſe, to undertake the care and management, and receive the profits, of the wards eſtate real and perſonal, and proſecute and maintain any ſuch actions and ſuits, concerning the ſame, as a guardian in common ſocage may do. The High Court of Chancery, generally, and the court of every county in chancery, within the limits of their juriſdiction, ſhall have power from time to time, to controul guardians, and hear and determine all matters between them and their wards: To require ſecurity of any guardian in ſocage, or ſtatutory guardian, when that caution ſhall ſeem neceſſary for prevention of any damage his ward may ſuffer, by neglect, miſmanagement, or malverſation; and, if the ſecurity be refuſed, or delayed, or if ſuch guardian appear to have been guilty of a flagrant abuſe of truſt, to diſplace him, and appoint another in his ſtead, and to give ſuch directions, and make ſuch rules and orders, as they ſhall think fit, for the government, maintenance, and education of wards, and preſervation of their eſtates, and for the conduct of guardians. Every court appointing a guardian ſhall take bond of him, with ſufficient ſurety, for the faithful execution of his office, and if any court omit this duty, or take ſuch ſurety as ſhall not ſatisfy them of his ſufficiency, which may be done as well by the ſurety's affidavit as otherwiſe, the ward, by an action on the caſe againſt the Judges or Juſtices, ſo making default, may recover ſo much of the damages which the guardian and ſurety ſhall be anſwerable for as theſe ſhall be unable to pay. If any guardian refuſe, or be unable, to give the ſurety required of him, the court may put the eſtate into the hands of a curator, the fitteſt they can prevail upon to undertake the care of it, to be accountable to them; and in that caſe ſhall not be ſponſible for his ability. Every guardian or curator, to be appointed by any court, ſhall, at the term or ſeſſion next afterwards, deliver into ſuch court an inventory upon oath, of all the eſtate which he ſhall have received, to be entered of record, in a ſeparate book, and ſuch guardian or curator, and every guardian heretofore ſo appointed, ſhall exhibit to ſuch court, once in every year, which if it be a county court, ſhall be in Auguſt, or at the next ſeſſion, if there be none in that month; or oftener, if he be ſpecially required, accounts upon oath, of the produce of the eſtate, of the ſales and diſpoſition of that produce and of the diſburſements; which accounts ſhall be examined by the court, or by ſuch perſons as the court ſhall refer them to, and, being found and certified, or reported to be properly and fairly ſtated, and the articles thereof to be juſtified by the vouchers, and the report, in caſe of a reference, being approved and confirmed by the court, ſhall, with ſuch certificate or confirmation, be entered of record in the book aforeſaid: And if any article of ſuch accounts, at any time afterwards, be excepted to by the ward or his repreſentative, it ſhall be incumbent on him to prove or ſhew the falſity or injuſtice thereof, unleſs notice, on his behalf, ſhall have been given, at the time of paſſing the accounts, that ſuch article would be excepted to, and a memorandum of that notice ſhall have been entered on record or deſired to be entered. The court at any time when they ſhall know or have cauſe to ſuſpect, that the ſurety of a guardian is failing, may require and compel ſuch guardian to give ſupplemental ſecurity, or, if he refuſe or neglect to do ſo, may diſplace him. A guardian who ſhall not deliver in ſuch inventory and render ſuch accounts as aforeſaid, ſhall, by order of the court to which he is amenable, be ſummoned, and if he remain in default, be compelled to perform his duty, or be diſplaced, for which purpoſe the ſummons or other proceſs from a county court may be directed to, and ſhall be executed by the ſheriff, of any other county, wherein the guardian may be found; and every Judge or Juſtice of the court ſitting therein, at any time during the term or ſeſſion, in which the proceſs ought to have been ordered, if it be not ordered accordingly, ſhall be amerced. If the diſburſements of the guardian, being ſuitable to the eſtate and circumſtances of the ward, ſhall exceed the profits of his eſtate, in any year, the balance, with the allowance of the court, may be debited in the account of a ſucceeding year; and a balance appearing on the contrary ſide may be put out to intereſt for the benefit of the ward, upon ſuch ſecurities as the court ſhall approve; or the guardian, if it remain in his hands, ſhall account for the intereſt, to be computed from the time his accounts were or ought to have been paſſed. If any ſurety for a guardian, by petition to the court before whom they were bound, ſetting forth, that he apprehends himſelf to be in danger of ſuffering thereby, ſhall pray that he may be relieved, the court, after a ſummons to anſwer the petition ſhall have been ſerved upon the guardian, or a copy of ſuch ſummons ſhall have been left at the place of his uſual abode, ſhall order him to give counter ſecurity, or to deliver the ward's eſtate into the hands of the ſurety or ſome other; in that caſe taking ſufficient ſecurity, or may make ſuch other order for relief of the petitioner as to them ſhall ſeem juſt. The eſtate of a guardian, not under a ſpecific lien, ſhall after his death be liable for whatſoever may be due from him on account of his guardianſhip to his ward, before any other debt due from ſuch guardian. Every orphan, who hath no eſtate or not ſufficient for a maintenance out of the profits, ſhall by order of the court of the county in which he or ſhe ſhall have reſided twelve months next preceeding be ſent to the ſchool of the hundred for three years; if he or ſhe ſhall not before have been there, or if he or ſhe ſhall have been there a part of the ſaid term, then for ſo long a time as ſhall complete the ſaid term; and, during attendance on the ſaid ſchool, ſhall be clothed and boarded ſo far as his or her own eſtate will not extend in the like manner as is provided by law for the ſupport of other poor; after which he or ſhe ſhall be bound apprentice until the age of twenty one years if a boy; or of eighteen years, if a girl, to ſome maſter or miſtreſs, who ſhall covenant to teach the apprentice ſome art, trade, or buſineſs, to be particulariſed in the indenture, and to pay to him or her three pounds and ten ſhillings at the expiration of the time. Any guardian may, with the approbation of that court in which his appointment ſhall be recorded, and not otherwiſe, bind his ward apprentice to ſuch perſon, for learning ſuch art, or trade, and with ſuch covenants on the part of the maſter or miſtreſs, as the ſaid court ſhall direct; and any ſuch apprentice, with the like approbation, or any apprentice bound by his father may with the approbation of the court of that county in which the father ſhall reſide, after he ſhall be ſixteen years of age, agree to ſerve until he ſhall be twenty-four years of age, and ſuch agreement entered on record ſhall bind him.

SECT. II. THE court of every county, city, or borough, ſhall at all times, receive the complaints of apprentices or hired ſervants, being citizens of any one of the confederating States of America, who reſide within the juriſdiction of ſuch court, againſt their maſters or miſtreſſes, alledging undeſerved or immoderate correction, inſufficient allowance of food, raiment, or lodging, or want of inſtruction, and may hear and determine ſuch caſes in a ſummary way, making ſuch orders thereupon as in their judgment will relieve the party injured in future, or removing the apprentices and binding them to other maſters or miſtreſſes when it ſhall ſeem neceſſary: and may alſo in the ſame manner hear and determine complaints of maſters or miſtreſſes againſt their apprentices or hired ſervants, for deſertion, without good cauſe, and may oblige the latter, for loſs thereby occaſioned, to make retribution by further ſervices after expiration of the times for which they had been bound.

CHAP. LXI.

A BILL *to enable Guardians and Committees to perform certain acts for the benefit of thoſe who are under their care.*

SECTION I. BE it enacted by the General Aſſembly, that where any perſon under the age of twenty-one years, or of unſound mind, is, or ſhall be ſeized or poſſeſſed of any land, tenements, or hereditaments, in truſt, or by way of mortgage, the guardian of the one, or committee of the other, by order of the High Court of Chancery, made upon the petition of one or more of the

parties interested, and after hearing them all may execute any such deed, or perform any other such act, as the trustee or mortgagee, if he were of full age, or of sane mind, respectively might have executed or performed; and such deed or other act shall be as valid, except that he shall not be bound by a warranty or other covenant contained in the deed. Also the said court may in like manner empower such guardian or committee to make, or take, a surrender of a former lease, and to take, or make, a new lease, as the case may require and as it shall seem most for the advantage of the infant, ideot, or lunatic, out of whose estate any fine that may be advanced and all other just expences that may be incurred in order to obtain a new lease to him, shall be reimbursed, and the new lease shall not be only chargeable with such fine and expences, but shall remain subject to all incumbrances which the lease surrendered would have been subject to.

CHAP. LXII.

A BILL *for the restraint, maintenance, and cure of Persons not sound in mind.*

SECTION I. BE it enacted by the General Assembly, that the present directors of the hospital for reception of persons of unsound minds, and their successors, to be chosen when vacancies happen, by joint ballot of both Houses of General Assembly, are hereby constituted a body politic and corporate, to have perpetual continuance, by the name of the Directors of the Hospital, for the maintenance and cure of persons of unsound minds; and by that name may sue and be sued and may, and shall have, and use a common seal; and are enabled to take and hold any estate real and personal, given, or to be given, to the said hospital, or to themselves for the use thereof, so as the annual revenue, or income, of such donations exceed not five hundred pounds, any law or statute to the contrary notwithstanding: and shall, and may, so often as it shall be necessary, choose a president to continue in office until his death, resignation, or removal. And the said directors, or any seven of them, the president being one, shall, from time to time, ordain regulations for the government of the said hospital, and appoint a keeper and matron thereof, with nurses and guards, when they shall be necessary, and provide for the accommodation, maintenance, and cure of the patients remaining and to be received therein. By warrant to be directed to the sheriff, a Justice of Peace may order to be brought before him any person whose mind, from his own observation, or the information of others, he shall suspect to be unsound and with two other Justices who, at his request; shall associate with him, shall inquire into the state of such person's mind; and the said Justices shall write down as well what shall appear to themselves, as what shall be testified by witnesses, touching the supposed insanity; and, if two of them adjudge the party to be such a one as ought to be confined in the hospital, and some friend will not become bound, with surety, to restrain, and take proper care of him or her, until the cause for confinement shall cease, the said Justices, or two of them, shall order the insane to be removed to the said hospital, and there received, and, for that end direct a warrant to the sheriff, and a mittimus to the said keeper, transmitting therewith to the latter the examinations of the witnesses, and a relation of such facts as the said Justices shall think pertinent to the subject, to be laid before the directors. The said keeper, immediately after the person removed shall be delivered to him, the receipt of whom he shall acknowledge in a writing signed by him, and given to the sheriff, shall inform the president thereof, who shall require his colleagues to meet so soon as may be; and at such meeting, which shall not be unnecessarily delayed, the directors, if having considered the case, they concur in opinion with the Justices, shall register the insane as a patient; but they may, at any time afterwards, deliver him or her to a friend becoming bound to restrain, and take care of him or her, in the same manner as the Justices might have done. If the directors differ in opinion from the Justices, they shall report the matter to the High Court of Chancery, who shall thereupon award the writ de idiota inquirendo, directed to the sheriff of that county, from whence the person supposed to be insane shall have been removed, and such person shall be put into the custody of the said sheriff, and remain there until the inquisition be taken and returned, and then shall be enlarged, or registered, as the said court shall order. The court of a county, city, or borough, shall refer it to three Justices to examine into the state of mind of an infant child, or ward, in their county, city, or borough, suggested to such court, by the parent or guardian, to be insane, and upon the report of the said Justices, if the suggestion appear to be true, shall order such insane to be removed, in the manner before directed, to the holpital, where he or she shall be received and registered. The expences of maintaining and endeavouring to cure a registered insane shall be reimbursed out of his estate, if any such there be, and in case of an infant, not an orphan, shall be repaid by the parent, and may be recovered by an action commenced and prosecuted in the names of the directors, who shall account for what shall thus come to their hands. Accounts of expences incurred in exectuion of this act, as well as for repairing the hospital, and other necessary incidental works and services, shall be audited and discharged in the same manner as other public accounts. The directors shall enlarge every person confined in the hospital, who shall appear to them to be perfectly cured of insanity, and give such person a certificate thereof. A person registered in the hospital, shall, nevertheless, during the time of his or her confinement there, be deemed an inhabitant of that county in which was his or her legal settlement at the time of his or her removal to the hospital.

CHAP. LXIII.

A BILL *for registering Births and Deaths.*

SECTION I. BE it enacted by the General Assembly, that notice, in writing, of the birth, and time of the birth, of every child shall be given to the Assessors of the public taxes of the hundred, wherein the birth shall have been, at the time of making the assessment next after such birth, by the father, or, if he be dead or unknown, by the mother of the child, in case such mother be a free woman; or, if she be a servant or slave, by her master or mistress, or the overseer or other person having the care of her; in which writing the sex of the child shall be distinguished, with the name and surname of each parent, if it be not a slave; and if it be the child of a servant, with the name and surname of the master or mistess also; but, if it be the child of a slave, with the name and surname of the master or mistress only: And the master or mistress of a family, and the overseer or other person having under his care a family of servants or slaves, shall give the like notice of every death, and time of the death, which shall happen in such family, adding in the description the name of the deceased, within the same time as is limited for giving, and to the same persons as are appointed to take, the notices of births. Which writings shall be transmitted by such Assessors, together with the notice of the like events in their own families, to the clerk of the peace of the county in which the hundred lieth, and be by him registered. Any person neglecting the duty enjoined by this act shall make amends for the default in this manner; the parent, master, mistress, overseer, or manager, shall be taxed, in the public assessment next afterwards, the sum of five shillings for every birth, or death, whereof notice shall not have been given, and the Assessor or clerk of the peace shall be amerced.

CHAP. LXIV.

A BILL for proportioning crimes and punishments in cases heretofore capital.

SECTION I. WHEREAS it frequently happens that wicked and diſſolute men reſigning themſelves to the dominion of inordinate paſſions, commit violations on the lives, liberties, and property of others, and the ſecure enjoyment of theſe having principally induced men to enter into ſociety, government would be defective in its principal purpoſe were it not to reſtrain ſuch criminal acts by inflicting due puniſhments on thoſe who perpetrate them; but it appears at the ſame time equally deducible from the purpoſes of ſociety, that a member thereof committing an inferior injury, does not wholly forfeit the protection of his fellow citizens, but after a ſuffering puniſhment in propo-tion to his offence, is intitled to their protection from all greater pain, ſo that it becomes a duty in the Legiſlature to arrange in a proper ſcale the crimes which it may be neceſſary for them to repreſs, and to adjuſt thereto a correſponding gradation of puniſhments. And whereas the reformation of offenders, though an object worthy the attention of the laws, is not effected at all by capital puniſhments which exterminate inſtead of reforming, and ſhould be the laſt melancholy reſource againſt thoſe whoſe exiſtence is become inconſiſtent with the ſafety of their fellow citizens; which alſo weaken the ſtate by cutting off ſo many, who, if reformed, might be reſtored ſound members to ſociety, who, even under a courſe of correction, might be rendered uſeful in various labours for the public, and who would be, living, and long continued ſpectacles to deter others from committing the like offences. And forasmuch as the experience of all ages and countries hath ſhewn that cruel and ſanguinary laws defeat their own purpoſe, by engaging the benevolence of mankind to withhold proſecutions, to ſmother teſtimony, or to liſten to it with bias; and by producing in many inſtances a total diſpenſation and impunity under the names of pardon and privilege of clergy; when if the puniſhment were only proportioned to the injury, men would feel it their inclination, as well as their duty, to ſee the laws obſerved; and the power of diſpenſation, ſo dangerous and miſchievous, which produces crimes by holding up a hope of impunity, might totally be aboliſhed, ſo that men while contemplating to perpetrate a crime would ſee their puniſhment enſuing as neceſſarily as effects follow their cauſes: For rendering crimes and puniſhments therefore more proportionate to each other,

SECT. II. BE it enacted by the General Aſſembly, that no crime ſhall be henceforth puniſhed by deprivation of life or limb, except thoſe herein after ordained to be ſo puniſhed.

SECT. III. IF a man do levy war againſt the commonwealth, or be adherent to the enemies of the commonwealth, giving to them aid and comfort in the commonwealth, or elſewhere, and thereof be convicted, of open deed, by the evidence of two ſufficient and lawful witneſſes, or his own voluntary confeſſion, the ſaid caſes, and no others, ſhall be adjudged treaſons which extend to the commonwealth, and the perſon ſo convicted ſhall ſuffer death, by hanging, and ſhall forfeit his lands and goods to the commonwealth.

SECT. IV. IF any perſon commit petty treaſon, or a huſband murder his wife, a parent his child, or a child his parent, he ſhall ſuffer death, by hanging, and his body be delivered to anatomiſts to be diſſected.

SECT. V. WHOSOEVER committeth murder by poiſoning, ſhall ſuffer death by poiſon.

SECT. VI. WHOSOEVER committeth murder by way of duel, ſhall ſuffer death by hanging; and if he were the challenger, his body, after death, ſhall be gibbeted. He who removeth it from the gibbet ſhall be guilty of a miſdemeanor, and the officer ſhall ſee that it be replaced.

SECT. VII. WHOSOEVER ſhall commit murder in any other way ſhall ſuffer death by hanging.

SECT. VIII. AND in all caſes of petty treaſon and murder, one half of the lands and goods of the offender ſhall be forfeited to the next of kin to the perſon killed, the other half deſcend and go to his own repreſentatives; ſave only where one ſhall ſlay the challenger in a duel, in which caſe no part of his lands or goods ſhall be forfeited to the kindred of the party ſlain, but inſtead thereof a moiety ſhall go the commonwealth.

SECT. IX. THE ſame evidence ſhall ſuffice, and order and courſe of trial be obſerved in caſes of petty treaſon, as in thoſe of other murders.

SECT. X. WHOSOEVER ſhall be guilty of manſlaughter, ſhall, for the firſt offence, be condemned to hard labour for ſeven years in the public works; ſhall forfeit one half of his lands and goods to the next of kin to the perſon ſlain; the other half to be ſequeſtered during ſuch term, in the hands, and to the uſe, of the commonwealth, allowing a reaſonable part of the profits for the ſupport of his family. The ſecond offence ſhall be deemed murder.

SECT. XI. AND where perſons meaning to commit a treſpaſs only, or larceny, or other unlawful deed, and doing an act from which involuntary homicide hath enſued, have heretofore been adjudged guilty of manſlaughter or of murder, by transferring ſuch their unlawful intention to an act, much more penal than they could have in probable contemplation, no ſuch caſe ſhall hereafter be deemed manſlaughter unleſs manſlaughter was intended, nor murder, unleſs murder was intended.

SECT. XII. IN other caſes of homicide the laws will not add to the miſeries of the party by puniſhments or forfeitures.

SECT. XIII. WHENEVER ſentence of death ſhall have been pronounced againſt any perſon for treaſon or murder, execution thereof ſhall be done on the next day but one, after ſuch ſentence, unleſs it be Sunday; and then on the Monday following.

SECT. XIV. WHOSOEVER ſhall be guilty of rape, or ſodomy, with man or woman, ſhall be puniſhed; if a man, by caſtration, if a woman, by boring through the cartilage of her noſe a hole of one half inch diameter at the leaſt.

SECT. XV. WHOSOEVER, on purpoſe, ſhall diſfigure another by cutting out or diſabling the tongue, ſlitting or cutting off a noſe, lip or ear, branding, or otherwiſe, or ſhall maim him, ſhall be maimed or diſfigured in like ſort; or if that cannot be, for want of the ſame part, then as nearly as may be, in ſome other part, of at leaſt equal value and eſtimation in the opinion of a jury; and moreover ſhall forfeit one half of his lands and goods to the ſufferer.

SECT. XVI. WHOSOEVER ſhall counterfeit any coin current by law within this commonwealth, or any paper bills iſſued in the nature of money, or of certificates of loan, on the credit of this commonwealth, or of all or any of the United States of America, or any inſpectors notes for tobacco, or ſhall paſs any ſuch counterfeited coin, paper bills, or notes, knowing them to be counterfeit; or, for the ſake of lucre, ſhall diminiſh each, or any ſuch coin, ſhall be condemned to hard labour ſix years in the public works, and ſhall forfeit all his lands and goods to the commonwealth.

SECT. XVII. THE making falſe any ſuch paper bill, or note, ſhall be deemed counterfeiting.

SECT. XVIII. WHOSOEVER committeth arſon ſhall be condemned to hard labour five years in the public works, and ſhall make good the loſs of the ſufferers threefold.

SECT. XIX. IF any perſon ſhall within this commonwealth, or, being a citizen thereof, ſhall without the ſame, wilfully deſtroy or run away with any ſea veſſel, or goods laden on board thereof, or plunder or pilfer any wreck, he ſhall be condemned to hard labour five years in the public works, and ſhall make good the loſs of the ſufferers threefold.

SECT. XX. WHOSOEVER committeth a robbery ſhall be condemned to hard labour four years in the public works, and ſhall make double reparation to the perſons injured.

SECT. XXI. WHATSOEVER act, if committed on any manſion-houſe would be deemed a burglary, ſhall be burglary if committed on any other houſe, and he who is guilty of a burglary ſhall be condemned to hard labour four years in the public works, and ſhall make double reparation to the perſons injured.

SECT. XXII. WHATSOEVER act, if committed in the night time, ſhall conſtitute the crime of burglary, ſhall, if committed in the day, be deemed houſe-breaking; and whoever is guilty thereof, ſhall be condemned to hard labour three years in the public works, and ſhall make reparation to the perſons injured.

SECT. XXIII. WHOSOEVER ſhall be guilty of horſe-ſtealing, ſhall be condemned to hard labour three years in the public works, and ſhall make reparation to the perſon injured.

SECT. XXIV. GRAND larceny ſhall be where the goods ſtolen are of the value of five dollars; and whoſoever ſhall be guilty thereof, ſhall be forthwith put in the pillory for one half hour, ſhall be condemned to hard labour two years in the public works, and make reparation to the perſon injured.

SECT. XXV. PETTY larceny ſhall be where the goods ſtolen are of leſs value than five dollars; whoſoever ſhall be guilty thereof, ſhall be forthwith put in the pillory for a quarter of an hour, ſhall be condemned to hard labour for one year in the public works, and ſhall make reparation to the perſons injured.

SECT. XXVI. ROBBERY or larceny of bonds, bills obligatory, bills of exchange, or promiſſary notes, for the payment of money or tobacco, lottery tickets, paper bills iſſued in the nature of money, or certificates of loan on the credit of this commonwealth, or of all or any of the United States of America, or inſpectors notes for tobacco, ſhall be puniſhed in the ſame manner as robbery or larceny of the money or tobacco due on, or repreſented by ſuch papers.

SECT. XXVII. BUYERS and receivers of goods taken by way of robbery or larceny, knowing them to have been ſo taken, ſhall be deemed acceſſaries to ſuch robbery or larceny after the fact.

SECT. XXVIII. PRISON-BREAKERS alſo ſhall be deemed acceſſaries after the fact to traitors or felons whom they enlarge from priſon.

SECT. XXIX. ALL attempts to delude the people or to abuſe their underſtanding by exerciſe of the pretended arts of witchcraft, conjuration, inchantment, or ſorcery, or by pretended prophecies, ſhall be puniſhed by ducking and whipping, at the diſcretion of a jury, not exceeding fifteen ſtripes.

SECT. XXX. IF the principal offenders be fled or ſecreted from juſtice, in any caſe not touching life or member, the acceſſaries may, notwithſtanding, be proſecuted as if their principal were convicted.

SECT. XXXI. IF any offender ſtand mute of obſtinacy, or challenge peremptorily more of the jurors than by law he may, being firſt warned of the conſequence thereof, the court ſhall proceed as if he had confeſſed the charge.

SECT. XXXII. PARDON and privilege of clergy ſhall henceforth be aboliſhed, that none may be induced to injure through hope of impunity; but if the verdict be againſt the defendant and the court, before whom the offence is heard and determined, ſhall doubt that it may be untrue for default of teſtimony, or other cauſe, they may direct a new trial to be had.

SECT. XXXIII. NO attainder ſhall work corruption of blood in any caſe.

SECT. XXXIV. IN all caſes of forfeiture, the widows dower ſhall be ſaved to her during her title thereto; after which it ſhall be diſpoſed of as if no ſuch ſaving had been.

SECT. XXXV. THE aid of council, and examination of their witneſſes on oath, ſhall be allowed to defendants in criminal proſecutions.

SECT. XXXVI. SLAVES guilty of any offence, puniſhable in others by labour in the public works, ſhall be tranſported to ſuch parts in the Weſt-Indies, South-America, or Africa, as the Governor ſhall direct, there to be continued in ſlavery.

CHAP. LXV.

A BILL puniſhing Perſons guilty of certain Forgeries.

SECTION I. BE it enacted by the General Aſſembly, that he or ſhe ſhall be adjudged a felon, and not have the benefit of clergy, who ſhall falſely make, forge, or counterfeit, or aid or aſſiſt in falſely making, forging, or counterfeiting a writing ſigned and directed or certified to the public Treaſurer, purporting to be a warrant of the Governor or other perſon exerciſing that function, or a certificate of the Auditors for Public Accounts, to authoriſe the payment of money; or cauſe or procure ſuch writing to be falſely made, forged or counterfeited; or preſent ſuch writing, or cauſe or procure it to be preſented, at the public treaſury, knowing it to have been falſely made, forged or counterfeited, in order to receive the money, or any part of the money therein mentioned; or ſhall make, forge or counterfeit, or aid or aſſiſt in falſely making, forging or counterfeiting, a writing, to be offered to the Auditors for Public Accounts, as a voucher, in order to obtain their allowance of a demand, and certificate of ſuch allowance; or cauſe or procure ſuch writing to be falſely made, forged or counterfeited; or offer ſuch writing, or cauſe or procure it to be offered to the ſaid Auditors, knowing it to have been falſely made, forged or counterfeited, in order to obtain their allowance and certificate aforeſaid. And he or ſhe ſhall be adjudged a felon, and not have the benefit of clergy, who ſhall forge or counterfeit, alter or eraſe any bill of credit, or treaſury note or loan office certificate, of the United States of America, or any, or either of them; or ſhall cauſe or procure, ſuch bill of credit, or treaſury note, or loan office certificate, to be forged or counterfeited, altered or

eraſed; or ſhall aid or aſſiſt, in forging or counterfeiting, altering or eraſing, ſuch bill of credit, or treaſury note, or loan office certificate; or ſhall paſs or tender, or ſhall cauſe or procure to be paſſed or tendered, any ſuch bill of credit, or treaſury note, or loan office certificate in payment or exchange, knowing the ſame to have been forged, or counterfeited, altered or eraſed; or ſhall have in his or her cuſtody or poſſeſſion, any preſs, types, ſtamp, plate, or other inſtrument neceſſary to be uſed in the fabrication of ſuch bill of credit, or treaſury note, or loan office certificate, and not actually uſed in ſome public printing-office; or any paper with or without ſignature, on which the characters, words and numerical figures contained in a genuine bill of credit, or treaſury note, or loan office certificate, are or ſhall be impreſſed, or inſcribed in like order as they are in ſuch bill of credit, or treaſury note, or loan office certificate, or any ſuch bill of credit, treaſury note, or loan office certificate, which hath been altered or eraſed, knowing the ſame to have been altered or eraſed, and ſhall not diſcover ſuch preſs, types, ſtamp, plate, inſtrument, paper, or altered or eraſed bill of credit, or treaſury note, or loan office certificate to two Juſtices of the Peace, before the laſt day of June, in this preſent year one thouſand ſeven hundred and ſeventy nine, or within five days after they ſhall have come to his poſſeſſion. When the Juſtices of a county, in which any ſuch felony as is before deſcribed ſhall be ſuppoſed to have been done, ſhall have determined, upon examination, that the perſon charged therewith ought to be tried before the General Court, the High Sheriff, or, if he be not able to attend, the Coroner ſhall deliver to them a liſt of the names of thirty ſix good and lawful men, out of which twenty four ſhall be ſtricken, one after another, the Juſtices and the priſoner ſtriking alternately, or if the priſoner refuſe to ſtrike the Juſtices ſtrikingonly; and the remaining twelve men ſhall be ſummoned by the writ of venire facias for trial of the priſoner: When a Juſtice of Peace, before whom a perſon charged upon oath with any ſuch felony as aforeſaid, ſhall inform the Governor that he hath cauſe to ſuſpect that the offender, if he ſhould be committed to the jail of the county in which the felony was done, would be reſcued (which information the Juſtice is required to give in writing, with ſecrecy and diſpatch) or when a perſon ſhall be charged upon oath made before the Governor, with ſuch felony, in either caſe, the Governor, with advice of the Council of State, may by his warrant, empower and order ſo many men as ſhall be judged ſufficient to apprehend the perſon accuſed, and convey and commit him to any other jail, in which he ſhall be detained, and ſhall by another warrant, direct the ſheriff of that county in which the laſt mentioned jail is, to ſummon the Juſtices thereof to meet at the court-houſe before the end of twenty days afterwards: And thereupon the ſaid Juſtices ſhall proceed in the ſame manner as they might have proceeded if the fact alledged againſt the priſoner had been done in their own county. And if he be remanded, the clerk of the peace attending the ſaid Juſtices, ſhall within twenty days afterwards certify the ſame to the ſheriff of the county, in which the fact was done, or failing to do ſo, ſhall forfeit one hundred pounds; and the ſame ſheriff ſhall ſummon the Juſtices of his county to meet at the court-houſe thereof within ten days after the receipt of ſuch certificate, and then deliver to them ſuch liſt as aforeſaid, out of which twenty four ſhall be ſtricken, in manner before directed, any agent authoriſed by the priſoner ſtriking for him, or, if no ſuch appear, the Juſtices ſtriking only; and the remaining twelve ſhall be ſummoned as jurors for trial of the priſoner, by writ of venire facias, to be iſſued by the clerk of the laſt mentioned county. Every juror ſummoned by virtue of any ſuch writ of venire facias, who ſhall fail at the return thereof, and from that time until he be diſcharged, to attend the General Court, ſhall forfeit one hundred pounds, unleſs the defaulter ſhew good cauſe to the contrary having been ſummoned for that purpoſe. Any Juſtice of the Peace may, by his warrant, cauſe to be apprehended and brought before him every ſuch perſon travelling in the county of the ſaid Juſtice, as he ſhall ſuſpect to carry forged bills of credit, or treaſury notes, or loan office certificates, and ſearch to be made in the wearing apparel and baggage of the ſaid traveller by force, if he expoſe them not voluntarily. The Governor, with advice of the Council of State, may offer rewards for apprehending thoſe who having been charged, upon oath, with any of the felonies before deſcribed, ſhall have fled from juſtice, and may draw warrants for ſuch rewards, not exceeding one thouſand pounds for any one fugitive, which ſhall be paid out of the public treaſury.

CHAP. LXVI.

A BILL *concerning Treaſons, Felonies and other offences committed out of the juriſdiction of this Commonwealth.*

SECTION I. BE it enacted by the General Aſſembly, that all high treaſons, miſpriſions and concealments of high treaſons and other offences, except piracies and felonies committed by any citizen of this commonwealth, in any place out of the juriſdiction of the courts of common law of this commonwealth, and all felonies committed by citizen againſt citizen in any ſuch place, other than the high ſeas, ſhall be inquired, tried, heard, determined and judged before any one or more of the Judges of the High Court of Chancery, together with any two or more of the Judges of the General Court, at ſuch time and place, within the commonwealth, as ſhall be limited by ſummons to be ſent to all the Judges from the Governor after the common courſe of the laws of this land, uſed for the like offences committed within the body of a county.

SECT. II. THE ſaid Judges ſhall enquire of ſuch offences by a grand jury of the county where the court ſhall ſit, and upon every indictment for any ſuch offence, ſuch order and proceſs ſhall be practiſed againſt the offenders as by the laws of this land is accuſtomed againſt thoſe committing the like offences within the body of a county; and the trial of ſuch offences, if denied by the offender, ſhall be had by twelve lawful men, inhabitants of the county where the offender was apprehended; and ſuch as ſhall be convict of any ſuch offence, ſhall ſuffer ſuch pains, loſſes of lands, goods and chattels as if they had been attainted and convicted of ſuch offence done within the body of a county.

SECT. III. THE ſaid Judges may adjourn, from time to time, at their will, till final determination, and ſhall be attended by the clerk and ſheriff of the General Court, which ſheriff ſhall execute their judgment and make return thereof to the ſaid clerk by him to be recorded together with all the proceedings.

CHAP. LXVII.

A BILL *concerning truces, ſafe conducts, paſſports, licenſes and letters of marque.*

SECTION I. FOR enforcing due regard to truces, letters of ſafe conduct, paſſports, and licenſes, and fixing rules for granting them, as alſo for granting letters of marque and reprizal, Be it enacted by the General Aſſembly, that letters of ſafe conduct, paſſports, and licenſes, may be granted by the American Congreſs, by the Governor, or by any Ambaſſador or other public miniſter duly appointed by the ſaid Congreſs, or from this commonwealth, or by our Delegates to the American Congreſs, ſuch Ambaſſador, or other public miniſter, from this commonwealth, or Delegates being out of the commonwealth at the time, or by any military officer of the United States, or of this common-

wealth, commanding in a ſeparate department, by land or by water: which letters of ſafe conduct, paſſports, or licenſes, ſhall expreſs the names of the perſons to whom they be granted, the name and burthen of the ſhip, the name of the maſter, and number of mariners, or attendants; and where the ſame are granted by the Governor they ſhall be under the great ſeal of the commonwealth, and ſhall be enrolled in the Chancery of record, and ſhall on the ſame paper, or parchment bear an atteſtation from the clerk of the chancery, that they are enrolled in his office: And where the ſame are granted by any Ambaſſador, or other public miniſter, Delegates, or military commander as aforeſaid, from this commonwealth, copies thereof, as ſoon as diſtance and opportunity permit, ſhall be tranſmitted by ſuch Ambaſſador, Delegates or commander to the Chancery for enrollment.

SECT. II. IF any citizen of this commonwealth ſhall commit any treſpaſs on the high ſeas, or any felony or treſpaſs in any other place, out of the juriſdiction of the courts of common law of this commonwealth, on the perſon or goods of any ſtranger in amity, league or truce with this commonwealth, or under protection of any letters of ſafe conduct, paſſports, or licenſes granted as aforeſaid, or ſhall be acceſſary, before or after the fact, to any ſuch felony, he ſhall ſuffer the ſame pains, loſſes of lands, goods and chattels, as for the like wrong committed on a citizen of this commonwealth within the ſame.

SECT. III. THE ſaid offenders having been arreſted by warrant from the Governor or any Juſtice of the Peace (who ſhall immediately notify the Governor thereof) their offence ſhall be enquired, heard, tried, determined, and judged, by one or more of the Judges of the High Court of Chancery, together with two or more Judges of the General Court, at ſuch time and place within the commonwealth, as ſhall be limited by ſummons to be ſent to all the Judges, from the Governor with the advice of the Council of State; but if the offence be a felony and not more than three or four of the ſaid Judges ſhall attend, the Governor ſhall join to them one or two aſſociates to make up the number five; which aſſociates ſhall be ſworn, by the preſiding Judge, well and truly to perform the duties of their appointment. The offender ſhall be indicted, arraigned and tried on evidence given viva voce in open court, or if the witneſſes be not within the commonwealth, then on their depoſitions taken in ſuch manner as the ſaid court ſhall approve: And if found guilty, ſuch order, proceſs, judgment and execution ſhall be practiſed as if he had been convicted of the like offence againſt a citizen of this commonwealth within the ſame; the ſaid Judges ſhall alſo iſſue proceſs againſt any other to whoſe hands ſhall have come any ſuch perſon or goods on which treſpaſs was committed and ſhall cauſe delivery and reſtitution thereof to be made, and ſhall likewiſe levy on the eſtate, real and perſonal, of the offender and his accomplices, all coſts, expences, and loſſes, diſburſed and ſuffered by the party injured, together with the value of the goods taken, if they cannot be ſpecifically reſtored, and they may adjourn, from time to time, at their will, till final determination, and ſhall be attended by the clerk and ſheriff of the General Court; which ſheriff ſhall execute their judgment and make return thereof to the ſaid clerk by him to be regiſtered together with all the proceedings.

SECT. IV. IF any citizen of this commonwealth feeling himſelf aggrieved by perſons belonging to any other ſtate in amity, league, or truce with the United States of America, ſhall complain to the Governor, the ſaid Governor, calling to his aſſiſtance the Council of State, ſhall hear and determine of ſuch complaint, and if the ſame to them appear juſt and the party complainant ſo deſire, he ſhall make application to the American Congreſs, from time to time as may be proper, for letters of requeſt to the ſtate of the perſon offending, or for letters of marque and repriſal, or for ſuch other redreſs as they ſhall think juſt.

SECT. V. AND where war ſhall have been declared by the American Congreſs againſt any ſtate, the Governor, with the advice of the Council of State, ſhall have power to iſſue letters of marque, under the great ſeal of this commonwealth, againſt ſuch hoſtile ſtate and the ſubjects thereof, to ſuch perſons, under ſuch reſtrictions, and on ſuch ſecurity, as to them ſhall ſeem expedient for the public good, and as ſhall likewiſe be conſiſtent with the regulations which ſhall have been eſtabliſhed by the American Congreſs.

CHAP. LXVIII.

A BILL *for the employment, government and ſupport of Malefactors condemned to labour for the Commonwealth.*

SECTION I. BE it enacted by the General Aſſembly, that malefactors condemned by judgment of law to hard labour, in the public works, in puniſhment of their crimes, ſhall be employed to row in the gallies of the commonwealth, or to work in the lead mines, or on fortifications or ſuch other hard and laborious works, for the behoof of the commonwealth, as by the Governor and Council, in their diſcretion, ſhall be directed: And during the term of their condemnation ſhall, at the public expence, be fed on wholeſome food, ſhall have ſuch lodgings as may defend them from the inclemencies of the weather, ſhall have their heads and beards conſtantly ſhaven, and be clothed in habits of coarſe materials, uniform in color and make, and diſtinguiſhed from all others uſed by the good citizens of this commonwealth; that ſo they may be marked out to public note as well while at their ordinary occupations, as when attempting to eſcape from the public cuſtody.

SECT. II. AND to the end that the opulence of the offender, or of his friends, or the indiſcreet counties of individuals may not diſarm the public juſtice, or alleviate thoſe ſufferings, which, making part of the puniſhment intended by the law, ſhould be incurred equally by all, and alſo to render eſcapes more difficult, their keeper ſhall particularly take care that no ſuch malefactor uſe or receive any clothing, other than ſhall be provided by the public, as is before directed; nor receive, nor have in their own keeping any weapons, arms, money, or other property, nor have attendants of their own; and all articles ſo prohibited to them and found in their cuſtody, or uſe, ſhall belong to him who will ſeize upon and take away the ſame, or give information thereof to the ſaid keeper and demand delivery to be made by him.

SECT. III. THE ſheriff of the General Court to whom the ſaid malefactors ſhall be committed, in execution of their ſentence, ſhall, from time to time, with the approbation of the Judges of the General Court, either in or out of ſeſſion, appoint ſuch and ſo many keepers of the ſaid malefactors as ſhall be neceſſary, whoſe duty it ſhall be to ſuperintend and direct their labours, provide diet, clothing, and lodging, and ſee to their ſafe cuſtody; and in order that they may be enabled to do this, they ſhall have power, (uſing their beſt diſcretion,) to inflict neceſſary and moderate coporal puniſhment on thoſe who ſhall be idle, or guilty of any treſpaſs, and to reſtrain in irons ſuch as ſhall be incorrigible otherwiſe.

SECT. IV. EVERY of the ſaid keepers ſhall be exempted from being of the militia.

SECT. V. THE court of the county wherein ſuch malefactors labour, or if they be on the water, out of the body of any county, the court of any adjacent county ſhall have power, either ex officio, or on information againſt any ſuch keeper for partiality or cruelty, to call before them ſuch keeper, together with the material witneſſes, and enquire into his conduct; and if it ſhall appear that he has been guilty of groſs partiality or cruelty, they ſhall cauſe the ſaid witneſſes to enter into recognizance for their appearance, at as early a day as may be,

before the General Court, to whom they ſhall repreſent the matter, tranſmitting to them the ſubſtance of the evidence given before them, together with the ſaid recognizances for their final determination. And if the cruelty of ſuch keeper ſhall require it, the ſaid county court ſhall alſo have power to ſuſpend him and to appoint another to exerciſe his office until the General Court ſhall take order therein. The General Court may nevertheleſs either on their own motion, or on complaint made by any other, take original cognizance of the miſbehaviour of any keeper and remove him from his office if they ſee cauſe. They ſhall alſo, whenever it is neceſſary and may conveniently be done, aſſign ſome perſon of diſcretion, humanity and attention, in the neighbourhood of the place where any malefactors labour, to enquire, from time to time, into their condition and treatment, and the conduct of their keepers and to repreſent the ſame to the ſaid court whenever it ſhall ſeem to him requiſite.

SECT. VI. IF any malefactor ſhall eſcape from his keeper, or abſent himſelf from his labour without good cauſe, to be judged of by the General Court, the term of his condemnation ſhall be lengthened two days for every one he ſhall be abſent.

SECT. VII. ALL reaſonable expences incurred by authority of this act ſhall be laid before the Auditors and by them entered in account, and on their warrant ſhall be paid by the Treaſurer, or the ſaid Auditors may, on the application of the ſheriff of the General Court, give their warrant on the Treaſurer for the advance of ſuch ſums as they ſhall think reaſonable and neceſſary, charging the ſame to the ſaid ſheriff and calling on him to render account of the expenditure thereof, at ſuch times as they ſhall think proper.

CHAP. LXIX.

A BILL to encourage the apprehending of Horſe Stealers.

SECTION I. BE it enacted by the General Aſſembly, that whoſoever ſhall apprehend one charged with horſe ſtealing, if the priſoner be convicted of that crime, ſhall be intitled to a reward of pounds, to be paid by the Treaſurer, upon a certificate of the General Court, that the claimant was the apprehender, and either that he was not examined as a witneſs at the trial, or that the other evidence then given was ſufficient, without his teſtimony, to convict the priſoner.

CHAP. LXX.

A BILL for preſerving the privileges of Ambaſſadors.

SECTION I. FOR preſerving the privileges of Ambaſſadors and other public miniſters from other ſtates, it is declared by the General Aſſembly, that all proceſs whereby the perſon of any ſuch Amoaſſador, or other public miniſter, authoriſed and received as ſuch by this commonwealth, or by the Congreſs of the American States, in union with this commonwealth, or any of his domeſtic ſervants whom he brought with him, may be arreſted or their goods ſeized or attached, ſhall be void.

SECT. II. AND it is enacted that all perſons ſuing forth, iſſuing, executing, proſecuting or ſoliciting any ſuch proceſs, knowing the defendant to be an Ambaſſador or other public miniſter as aforeſaid, or the domeſtic ſervant of ſuch an one, and all who ſhall aſſault the perſon of any ſuch Ambaſſador, or other public miniſter, or who ſhall commit any treſpaſs on his goods, ſhall be deemed violators of the laws of nations and diſturbers of the public repoſe.

SECT. III. THE ſaid offences ſhall be enquired, heard, tried, determined and judged by one or more of the Judges of the High Court of Chancery together with two or more of the Judges of the General Court, at ſuch time and place within the commonwealth, as ſhall be limited by ſummons from the Governor, taking thereupon the advice of the Council of State; and the offender, if adjudged guilty, ſhall ſuffer ſuch puniſhment by fine and impriſonment, as the ſaid Judges ſhall think fit, to be inflicted; and ſuch order, proceſs and execution ſhall be practiſed as is agreeable to the form of the common law. The ſaid Judges may adjourn themſelves, from time to time at their will, till final determination, and ſhall be attended by the clerk and ſheriff of the General Court; which ſheriff ſhall execute their ſentence and make return thereof to the ſaid clerk, by him to be regiſtered together with all the proceedings in a ſeparate book.

SECT. IV. AND in order to aſcertain what ſervants atending ſuch Ambaſſador, or other miniſter, are privileged from arreſt, and to make known their names, the Governor and Council, as ſoon as may conveniently be done after the arrival of ſuch Ambaſſador, or other miniſter, ſhall take order for procuring from him an authentic roll of the names of his domeſtic ſervants whom he brought with him, a copy of which they ſhall deliver to the clerk of the General Court, who ſhall affix the ſame on the wall of his office, within the reach and reading of thoſe who may reſort thereto, and continue it there ſo long as ſuch Ambaſſador, or other miniſter, ſhall remain within the commonwealth.

CHAP. LXXI.

A BILL for the ſuppreſſion and puniſhment of Riots, Routs, and unlawful Aſſemblies.

SECTION I. BE it enacted by the General Aſſembly, that if any riot, aſſembly or rout of people againſt the law, be made in any part of the commonwealth, the Juſtices of Peace, three, or two of them at the leaſt, and the ſheriff or under ſheriff of the county where ſuch riot, aſſembly or rout ſhall be made, ſhall come with the power of the county (if need be) to arreſt them, and ſhall arreſt them. And the ſame Juſtices and ſheriff, or under ſheriff, ſhall have power to record that which they ſhall find ſo done in their preſence againſt the law, by which record ſuch treſpaſſes and offenders ſhall be convict, and ſhall be taken and put in the jail of the ſame county there to abide for ſo long time as ſhall be limited by a jury to be ſworn by the Judges for that purpoſe, and further until they ſhall have paid ſuch amercement as the ſame jury ſhall aſſeſs. And if it happen that ſuch treſpaſſes and offenders be departed before the coming of the ſaid Juſtices and ſheriff, or under ſheriff, the ſame Juſtices, three or two of them, ſhall diligently enquire, within a month after ſuch riot, aſſembly or rout of people ſo made, and thereof ſhall hear and determine according to law. And for this purpoſe the ſheriff having a precept directed to him ſhall return twenty four fit perſons, twelve of whom having been ſworn ſhall enquire of the ſaid riot, rout, or unlawful aſſembly, and award againſt thoſe whom they ſhall find guilty thereof due pains by amercement and impriſonment, as before

is directed; and if ſo many of them ſhould not appear, thoſe who make default ſhall be fined by the ſame Juſtices forty ſhillings each; and if the default be in the ſheriff or under ſheriff he ſhall forfeit to the commonwealth twenty pounds. And if the ſaid riot, rout or unlawful aſſembly be not found by the ſaid jury by reaſon of any maintenance, embracery, partiality, or other miſbehaviour of the ſaid jurors, then the ſaid Juſtices and the ſheriff or under ſheriff ſhall certify the whole matter and circumſtances to the General Court, and alſo the names of the maintainers and embracers in that behalf, if any be, with their miſdemeanors that they know, in order that they may be duly proſecuted, upon pain of every of the ſaid Juſtices and ſheriff or under ſheriff to forfeit twenty pounds if they have no reaſonable excuſe for not certifying the ſame; which certificate ſhall be of like force as the preſentment of a grand jury; and thereupon the ſaid treſpaſſers and offenders being put to anſwer, they which ſhall be found guilty ſhall be puniſhed by impriſonment and amercement according to the diſcretion of a jury, as before is directed; and if the ſame treſpaſſers do not appear before the General Court at the firſt precept, then ſhall be another precept directed to the ſheriff of the county, to take the ſaid treſpaſſers and offenders, if they may be found, and to bring them, at a certain day, before the General Court; and if they cannot be found, the ſheriff or under ſheriff ſhall make proclamation in his full county next enſuing the delivery of the ſecond precept that they ſhall appear before the General Court on a day named; and in caſe the ſame offenders come not as afore is ſaid, and the proclamation made and returned, they ſhall be convict and attainted of the riot, aſſembly or rout aforeſaid. And moreover the Juſtices of Peace in every county where ſuch riot, aſſembly or rout of people ſhall be made, in caſe the ſame be made in their preſence, or if none be preſent, then the Juſtices dwelling nigheſt, having notice thereof, together with the ſheriff or under ſheriff of the ſame county, ſhall do execution of this act, every one upon pain of a hundred pounds, to be paid to the commonwealth as often as they ſhall be found in default of the execution of the ſame act.

SECT. II. AND on ſuch default of the Juſtices and ſheriff or under ſheriff, a commiſſion ſhall go from the General Court, at the inſtance of the party grieved, to enquire, as well of the truth of the caſe and of the original matter for the party complainant, as of the default or defaults of the ſaid Juſtices, ſheriff or under ſheriff in this behalf ſuppoſed, to be directed to ſufficient and indifferent perſons at the nomination of the Judges. And the ſaid commiſſioners preſently ſhall return into the General Court the inqueſts and matters before them in this behalf taken and found.

SECT. III. BUT no perſons convicted of a riot, rout or unlawful aſſembly ſhall be impriſoned for ſuch offence by a longer ſpace of time than one year.

SECT. IV. PERSONS legally convicted of a riot, rout, or unlawful aſſembly, otherwiſe than in the manner directed by this act, ſhall be puniſhed by impriſonment and amercement at the diſcretion of a jury under the like limitation.

CHAP. LXXII.

A BILL forbidding and puniſhing Affrays.

SECTION I. BE it enacted by the General Aſſembly, that no man great nor ſmall, of what condition ſoever he be, except the miniſters of juſtice in executing the precepts of the Courts of Juſtice, or in executing of their office, and ſuch as be in their company aſſiſting them be ſo hardy to come before the Juſtices of any court, or other of their miniſters of juſtice doing their office, with force and arms on pain to forfeit their armour to the commonwealth and their bodies to priſon at the pleaſure of a court, nor go nor ride armed by night nor by day, in fairs or markets or in other places in terror of the country, upon pain of being arreſted and committed to priſon by any Juſtice on his own view, or proof by others, there to abide for ſo long a time as a jury, to be ſworn for that purpoſe by the ſaid Juſtice, ſhall direct, and in like manner to forfeit his armour to the commonwealth.

SECT. II. BUT no perſon ſhall be impriſoned for ſuch offence by a longer ſpace of time than one month.

CHAP. LXXIII.

A BILL againſt Conſpirators.

SECTION I. BE it declared and enacted by the General Aſſembly, that conſpirators be they that do confederate or bind themſelves by oath, covenant, or other aſſurance that every of them ſhall aid and bear the other falſely and maliciouſly to move or cauſe to be moved any indictment or information againſt another on the part of the commonwealth, and thoſe who are convicted thereof at the ſuit of the commonwealth, ſhall be puniſhed by impriſonment and amercement at the diſcretion of a jury.

CHAP. LXXIV.

A BILL againſt conveying or taking pretenſed Titles.

SECTION I. BE it enacted by the General Aſſembly, that no perſon ſhall convey or take, or bargain to convey or take, any pretenſed title to any lands or tenements, unleſs the perſon conveying or bargaining to convey, or thoſe under whom he claims ſhall have been in poſſeſſion of the ſame, or of the reverſion or remainder thereof one whole year next before. And he who offendeth herein knowingly ſhall forfeit the whole value of the lands or tenements; the one moiety to the commonwealth, and the other to him who will ſue as well for himſelf as for the commonwealth.

SECT. II. BUT any perſon lawfully poſſeſſed of lands or tenements or of the reverſion or remainder thereof, may nevertheleſs take or bargain to take the pretenſed title of any other perſon, ſo far and ſo far only as it may confirm his former eſtate.

CHAP. LXXV.

A BILL to puniſh Bribery and Extortion.

SECTION I. BE it enacted by the General Aſſembly, that no Treaſurer, keeper of any public ſeal, Councillor of State, counſel for the commonwealth, Judge, clerk of the peace, ſheriff, coroner, eſcheator, nor any other officer of the commonwealth, ſhall in time to come take, in any form, any manner of gift, brocage, or reward for doing his office, other than is or ſhall be

allowed by ſome act of General Aſſembly paſſed after the inſtitution of the commonwealth, that is to ſay, after the fifteenth day of May, in the year of our Lord 1776. And he that doth ſhall pay unto the party grieved the treble value of that he hath received, ſhall be amerced and impriſoned at the diſcretion of a jury, and ſhall be diſcharged from his office for ever; and he who will ſue in the ſaid matter ſhall have ſuit as well for the commonwealth as for himſelf, and the third part of the amercement.

CHAP. LXXVI.

A BILL *preſcribing the puniſhment of thoſe who ſell unwholeſome Meat or Drink.*

SECTION I. BE it enacted by the General Aſſembly, that a butcher that ſelleth the fleſh of any animal dying, otherwiſe than by ſlaughter, or ſlaughtered when diſeaſed, or a baker, brewer, or diſtiller, who ſelleth unwholeſome bread or drink ſhall, on conviction the firſt time, be amerced; the ſecond time he ſhall ſuffer judgment of the pillory, and the third time he ſhall be impriſoned and make fine; and every time after he ſhall be adjudged to hard labour ſix month in the public works.

CHAP. LXXVII.

A BILL *to prevent the ſpreading of the Small-Pox.*

SECTION I. BE it enacted by the General Aſſembly, that it ſhall not be lawful for the maſter or miſtreſs of a family, of which no one was before caſually infected with the ſmall-pox, to inoculate any perſon at his or her houſe, or, if any there be infected, to inoculate one who is not of his or her family, or knowingly ſuffer another to do it, or bring or ſuffer to come an infected perſon thither, until ſuch maſter or miſtreſs ſhall have obtained conſent, to perform the operation there, of the greater number of houſe keepers, who dwell within two miles thereof, and whoſe habitations are not ſeparated from it, by a water or marſh one quarter of a mile wide, which conſent ſhall be declared by writing, ſigned, in preſence of, and atteſted by, two witneſſes. Every perſon, in whoſe houſe there ſhall be any infected with the ſmall-pox, ſhall, within ſix hours after notice thereof, hoiſt a flag, of white cloth, two feet in length, and of half that breadth, on a ſtaff erected over or near the front door caſe of the houſe, and continually keep it there expoſed, until ſome Juſtice of the Peace ſhall certify the houſe, in his opinion to be free of infection. The maſter or miſtreſs of a family, in whoſe houſe it will be lawful to inoculate according to this act, or the phyſician or practitioner undertaking the inoculation, or having the care of the patients, ſhall, before beginning the operation, give notice thereof, by ſetting up advertiſements on the neareſt public road, and at the neareſt church, court houſe, tavern, and mill; and ſuch phyſician or practioner ſhall uſe the moſt effectual means within his power, by purifying the bodies and wearing apparel of thoſe who ſhall have been under his care, to prevent infection by them, and ſhall deliver to every patient, when he or ſhe ſhall be diſcharged, a certificate to that purpoſe, or that the perſon is a ſubject incapable of infection. A perſon who never had the ſmall-pox, or upon whom the experiment of inoculation had never been made, knowingly and voluntarily going into the houſe, wherein one who is infected with the ſmall-pox abideth, and returning, may, by warrant of a Juſtice of the Peace, due proof thereof being made before him, be apprehended, and removed to the neareſt houſe in which inoculation is performed, and be deemed, to all intents and purpoſes, a regularly admitted patient there, or be confined in ſome other place without danger of communicating the diſorder, until he may be ſafely enlarged; and the expences of his maintenance and cure, if he be not able to pay them, ſhall be defrayed by the county; and in like manner one infected with the ſmall-pox, who ſhall be found ſtrolling or wandering abroad, may be apprehended, confined, and provided for. The maſter or miſtreſs of a family, who ſhall dwell within the limits before deſcribed, inoculating a perſon at his or her houſe, or ſuffering another to do it, without obtaining ſuch conſent, or giving ſuch notice as aforeſaid, or the phyſician or practitioner beginning to inoculate there, before ſuch notice ſhall have been given, failing to perform any duty required of him by this act, or giving a falſe certificate, ſhall be amerced. Any patient, before a certificate delivered to him, or removing from the place whereat he or ſhe ſhall have taken the ſmall-pox to another habitation, or going into the company of thoſe who never had it, or, if he be paſſing in a road, not retiring upon the approach of a traveller, or giving timely notice of his condition to ſuch traveller, ſhall forfeit forty ſhillings, for every offence, to the uſe of the commonwealth, recoverable, if the offender be an infant, from the parent or guardian. Any perſon wilfully endeavouring to ſpread or propagate the ſmall-pox, otherwiſe than by this act he lawfully may, beſides the puniſhment or reparation for ſpecial damage he may be liable to by indictment, information, or action, ſhall in the meantime, be bound to the good behaviour, and any ſuch unlawful practice afterwards ſhall be deemed a breach of the condition of the recognizance.

CHAP. LXXVIII.

A BILL *for compelling Veſſels and Perſons coming, and Goods brought from infected places, to perform Quarantine.*

SECTION I. BE it enacted by the General Aſſembly, that veſſels, perſons, and merchandize, coming or brought into any place within this commonwealth from any other part of the world, whence the Governor, with advice of his council, ſhall judge it probable, that any plague, or other infectious diſeaſe, may be brought, ſhall be obliged to make their quarantine in ſuch place, during ſuch time and in ſuch manner, as ſhall be directed by the Governor, by his order, in Council, notified, by proclamation, to be publiſhed in the Virginia Gazette, and, until they ſhall be diſcharged from the quarantine, no ſuch perſons or merchandize ſhall come, or be brought, on ſhore, or go, or be put on board of any other veſſel in the commonwealth, but in ſuch manner, in ſuch caſes, and by ſuch licenſe, as ſhall be permitted by the order; and the veſſel and perſons receiving goods out of her ſhall be ſubject to the orders concerning quarantine, and for preventing infection, which ſhall be made by the Governor in Council, and notified as aforeſaid. The maſter of a veſſel coming from ſea, on board of which there ſhall be a perſon infected with the plague, or other peſtilential diſeaſe, ſhall immediately make the caſe known to ſome Naval Officer, who ſhall ſend intelligence thereof, with all ſpeed, to the Governor, that meaſures may be taken for ſupport of the crew, and precautions uſed to prevent the ſpreading of the infection; and the maſter ſhall not enter into any

port, but ſhall remain in ſome open road, and ſhall avoid, and hinder all intercourſe with other veſſels or perſons: nor ſhall any of the paſſengers or crew go on ſhore, until the order of the Governor in Council ſhall be received by the maſter. Whoſoever ſhall offend againſt this act, in either or any of the aforementioned inſtances, ſhall be amerced. When a place ſhall be infected with the plague, or other peſtilential diſeaſe, or when the Governor, with advice of the Council, ſhall have notified by proclamation, publiſhed in the Virginia Gazette, that it is judged probable the plague or other peſtilential diſeaſe may be brought from any place, if a veſſel from ſuch place ſhall be coming into a port of the commonwealth, the Naval Officer, or perſon who ſhall be authoriſed to ſee quarantine performed, ſhall go off, or cauſe ſome other to go off, to the veſſel, and at a convenient diſtance, require the commander to declare, what is his name; at what places the cargo was taken on board; at what places the veſſel touched in her paſſage; whether any of thoſe places were infected with the plague, or any other peſtilential diſeaſe; how long the veſſel had been in her paſſage; how many perſons were on board when ſhe ſet ſail; whether any on board during the voyage had been infected with the plague, or other peſtilential diſeaſe, and who they are; how many died in the voyage, and of what diſtemper; what veſſels he or any of his company, with his privity, went on board of, and whether any of their company had been on board of his veſſel in their voyage; and to what places thoſe veſſels belonged; and what are the contents of his lading. And if it ſhall appear by the examination, that the veſſel ought to perform quarantine, the officers of the ſhips of war, and forts, and garriſons, or other officers civil or military, of the commonwealth, having notice thereof, and other perſons called to their aſſiſtance, may force ſuch veſſel, by violence, and, if neceſſary, by firing guns at her, to go to the place appointed for quarantine. The maſter of a veſſel, coming from a place infected with the plague, or other peſtilential diſeaſe, or having any perſon on board ſo infected, who ſhall conceal it, or who ſhall not give true anſwers to the queſtions, ſo to be propounded to him, ſhall be amerced. The maſter of a veſſel, ordered to perform quarantine, when he ſhall be required, after his arrival at the place appointed, ſhall deliver to the officer, authoriſed to ſee it performed there, the bills of health and manifeſts he ſhall have received, during the voyage, with his log-book and journal; and refuſing or neglecting ſo to do, or to repair, in convenient time after notice, to the place appointed, or eſcaping from thence before quarantine performed, ſhall be amerced. Perſons, ordered to perform quarantine, if they ſhall eſcape, may be compelled to return, or, if they ſhall attempt to eſcape, may be detained by the perſons, who ſhall be authoriſed to ſee the quarantine performed, and who may employ force, and call for the aſſiſtance of others, if it be neceſſary, for this purpoſe. Any perſon going on board a veſſel, or into a place under quarantine, without licenſe from the ſuperintendant thereof, may be compelled to remain there, in the ſame manner as he might have been, if he had been one of the crew of the veſſel. A Naval Officer, or perſon authoriſed to execute an order concerning quarantine, guilty of wilful breach or neglect of duty, ſhall be amerced. And any perſon embezzling, or wilfully damaging, goods performing quarantine under his direction, ſhall be liable to the party injured for treble the value of the damages ſuſtained thereby. The veſſel, perſons and goods, after quarantine performed, certificate thereof and that they are free from infection, being given by the ſuperintendant, ſhall be no further reſtrained by virtue of this act. A perſon authoriſed to ſee the quarantine performed, or a watchman upon any veſſel, place, or goods, under quarantine, deſerting his duty or willingly permitting a perſon's veſſel or goods to depart, or be conveyed away, from the place, where the quarantine ought to be performed, without a lawful licenſe, or a perſon, impowered to give a certificate of the performance of quarantine, knowingly giving a falſe certificate, ſhall be amerced. The forfeitures inflicted by this act ſhall be to the uſe of the commonwealth, and ſhall be recovered, by action of debt, in which actions the defendants ſhall be ruled to give ſpecial bail.

CHAP. LXXIX.

A BILL *for the more general diffuſion of Knowledge.*

SECTION I. WHEREAS it appeareth that however certain forms of government are better calculated than others to protect individuals in the free exerciſe of their natural rights, and are at the ſame time themſelves better guarded againſt degeneracy, yet experience hath ſhewn, that even under the beſt forms, thoſe entruſted with power have, in time, and by ſlow operations, perverted it into tyranny; and it is believed that the moſt effectual means of preventing this would be, to illuminate, as far as practicable, the minds of the people at large, and more eſpecially to give them knowledge of thoſe facts, which hiſtory exhibiteth, that, poſſeſſed thereby of the experience of other ages and countries, they may be enabled to know ambition under all its ſhapes, and prompt to exert their natural powers to defeat its purpoſes; And whereas it is generally true that that people will be happieſt whoſe laws are beſt, and are beſt adminiſtered, and that laws will be wiſely formed, and honeſtly adminiſtered, in proportion as thoſe who form and adminiſter them are wiſe and honeſt; whence it becomes expedient for promoting the publick happineſs that thoſe perſons, whom nature hath endowed with genius and virtue, ſhould be rendered by liberal education worthy to receive, and able to guard the ſacred depoſit of the rights and liberties of their fellow citizens, and that they ſhould be called to that charge without regard to wealth, birth or other accidental condition or circumſtance; but the indigence of the greater number diſabling them from ſo educating, at their own expence, thoſe of their children whom nature hath fitly formed and diſpoſed to become uſeful inſtruments for the public, it is better that ſuch ſhould be ſought for and educated at the common expence of all, than that the happineſs of all ſhould be confided to the weak or wicked:

SECT. II. BE it therefore enacted by the General Aſſembly, that in every county within this commmonwealth, there ſhall be choſen annually, by the electors qualified to vote for Delegates, three of the moſt honeſt and able men of their county, to be called the Aldermen of the county; and that the election of the ſaid Aldermen ſhall be held at the ſame time and place, before the ſame perſons, and notified and conducted in the ſame manner as by law is directed for the annual election of Delegates for the county.

SECT. III. THE perſon before whom ſuch election is holden ſhall certify to the court of the ſaid county the names of the Aldermen choſen, in order that the ſame may be entered of record, and ſhall give notice of their election to the ſaid Aldermen within a fortnight after ſuch election.

SECT. IV. THE ſaid Aldermen on the firſt Monday in October, if it be fair, and if not, then on the next fair day, excluding Sunday, ſhall meet at the court-houſe of their county, and proceed to divide their ſaid county into hundreds, bounding the ſame by water courſes, mountains, or limits, to be run and marked, if they think neceſſary, by the county ſurveyor, and at the county expence, regulating the ſize of the ſaid hundreds, according to the beſt of their diſcretion, ſo as that they may contain a convenient number of children to make up a ſchool, and be of ſuch convenient ſize that all the children within each hundred may daily attend the ſchool to be eſtabliſhed therein, diſtinguiſhing each hundred by a particular name; which diviſion, with the names of the ſeveral hundreds, ſhall be returned to the court of the county and be entered of record, and ſhall remain unaltered until the increaſe or decreaſe of inhabitants ſhall render an alteration neceſſary, in the opinion of any ſucceeding Aldermen, and alſo in the opinion of the court of the county.

SECT. V. THE electors aforesaid residing within every hundred shall meet on the third Monday in October after the first election of Aldermen, at such place, within their hundred, as the said Aldermen shall direct, notice thereof being previously given to them by such person residing within the hundred as the said Aldermen shall require who is hereby enjoined to obey such requisition, on pain of being punished by amercement and imprisonment. The electors being so assembled shall choose the most convenient place within their hundred for building a school-house. If two or more places, having a greater number of votes than any others, shall yet be equal between themselves, the Aldermen, or such of them as are not of the same hundred, on information thereof, shall decide betwen them. The said Aldermen shall forthwith proceed to have a school-house built at the said place, and shall see that the same be kept in repair, and, when necessary, that it be rebuilt; but whenever they shall think necessary that it be rebuilt, they shall give notice as before directed, to the electors of the hundred to meet at the said school-house, on such day as they shall appoint, to determine by vote, in the manner before directed, whether it shall be rebuilt at the same, or what other place in the hundred.

SECT. VI. AT every of these schools shall be taught reading, writing, and common arithmetick, and the books which shall be used therein for instructing the children to read shall be such as will at the same time make them acquainted with Grecian, Roman, English, and American history. At these schools all the free children, male and female, resident within the respective hundred, shall be intitled to receive tuition gratis, for the term of three years, and as much longer, at their private expence, as their parents, guardians or friends, shall think proper.

SECT. VII. OVER every ten of these schools (or such other number nearest thereto, as the number of hundreds in the county will admit, without fractional divisions) an overseer shall be appointed annually by the Aldermen at their first meeting, eminent for his learning, integrity, and fidelity to the commonwealth, whose business and duty it shall be, from time to time, to appoint a teacher to each school, who shall give assurance of fidelity to the commonwealth, and to remove him as he shall see cause; to visit every school once in every half year at the least; to examine the schollars; see that any general plan of reading and instruction recommended by the visiters of William and Mary College shall be observed; and to superintend the conduct of the teacherin every thing relative to his school.

SECT. VIII. EVERY teacher shall receive a salary of by the year, which, with the expences of building and repairing the school-houses, shall be provided in such manner as other county expences are by law directed to be provided and shall also have his diet, lodging, and washing found him, to be levied in like manner, save only that such levy shall be on the inhabitants of each hundred for the board of their own teacher only.

SECT. IX. AND in order that grammer schools may be rendered convenient to the youth in every part of the commonwealth, BE it farther enacted, that on the first Monday in November, after the first appointment of overseers for the hundred schools, if fair, and if not, then on the next fair day, excluding Sunday, after the hour of one in the afternoon, the said overseers appointed for the schools in the counties of Princess Ann, Norfolk, Nansemond and Isle-of-Wight, shall meet at Nansemond court-house; those for the counties of Southampton, Sussex, Surry and Prince George, shall meet at Sussex court-house; those for the counties of Brunswick, Mecklenburg and Lunenburg, shall meet at Lunenburg court-house; those for the counties of Dinwiddie, Amelia and Chesterfield, shall meet at Chesterfield court-house; those for the counties of Powhatan, Cumberland, Goochland, Henrico and Hanover, shall meet at Henrico court-house; those for the counties of Prince Edward, Charlotte and Halifax, shall meet at Charlotte court-house; those for the counties of Henry, Pittsylvania and Bedford, shall meet at Pittsylvania court-house; those for the counties of Buckingham, Amherst, Albemarle and Fluvanna, shall meet at Albemarle court-house; those for the counties of Botetourt, Rockbridge, Montgomery, Washington and Kentucky, shall meet at Botetourt court-house; those for the counties of Augusta, Rockingham and Greenbrier, shall meet at Augusta court-house; those for the counties of Accomack and Northampton, shall meet at Accomack court-house; those for the counties of Elizabeth City, Warwick, York, Glocester, James City, Charles City and New-Kent, shall meet at James City court-house; those for the counties of Middlesex, Essex, King and Queen, King William and Caroline, shall meet at King and Queen court-house; those for the counties of Lancaster, Northumberland, Richmond and Westmoreland, shall meet at Richmond court-house; those for the counties of King George, Stafford, Spotsylvania, Prince William and Fairfax, shall meet at Spotsylvania court-house; those for the counties of Loudoun and Fauquier, shall meet at Loudoun court house; those for the counties of Culpeper, Orange and Louisa, shall meet at Orange court house; those for the counties of Shenandoah and Frederick, shall meet at Frederick court-house; those for the counties of Hampshire and Berkeley, shall meet at Berkeley court house; and those for the counties of Yohogania, Monongalia and Ohio, shall meet at Monongalia court-house; and shall fix on such place in some one of the counties in their district as shall be most proper for situating a grammar school-house, endeavouring that the situation be as central as may be to the inhabitants of the said counties, that it be furnished with good water, convenient to plentiful supplies of provision and fuel, and more than all things that it be healthy. And if a majority of the overseers present should not concur in their choice of any one place proposed, the method of determining shall be as follows: If two places only were proposed, and the votes be divided, they shall decide between them by fair and equal lot; if more than two places were proposed, the question shall be put on those two which on the first division had the greater number of votes; or if no two places had a greater number of votes than the others, as where the votes shall have been equal between one or both of them and some other or others, then it shall be decided by fair and equal lot (unless it can be agreed by a majority of votes) which of the places having equal numbers shall be thrown out of the competition, so that the question shall be put on the remaining two, and if on this ultimate question the votes shall be equally divided, it shall then be decided finally by lot.

SECT. X. THE said overseers having determined the place at which the grammer school for their district shall be built, shall forthwith (unless they can otherwise agree with the proprietors of the circumjacent lands as to location and price) make application to the clerk of the county in which the said house is to be situated, who shall thereupon issue a writ, in the nature of a writ of ad quod damnum, directed to the sheriff of the said county commanding him to summon and impannel twelve fit persons to meet at the place, so destined for the grammer school house, on a certain day, to be named in the said writ, not less than five, nor more than ten, days from the date thereof; and also to give notice of the same to the proprietors and tenants of the lands to be viewed, if they be to be found within the county, and if not, then to their agents therein if any they have. Which freeholders, shall be charged by the said sheriff impartially, and to the best of their skill and judgment to view the lands round about the said place, and to locate and circumscribe, by certain metes and bounds, one hundred acres thereof, having regard therein principally to the benefit and convenience of the said school, but respecting in some measure also the convenience of the said proprietors, and to value and appraise the same in so many several and distinct parcels as shall be owned or held by several and distinct owners or tenants, and according to their respective interests and estates therein. And after such location and appraisement so made, the said sheriff shall forthwith return the same under the hands and seals of the said jurors, together with the writ, to the clerk's office of the said county and the right and property of the said proprietors and tenants in the said lands so circumscribed shall be immediately devested and be transferred to the commonwealth for the use of the said grammar

ſchool, in full and abſolute dominion, any want of conſent or diſability to conſent in the ſaid owners or tenants notwithſtanding. But it ſhall not be lawful for the ſaid overſeers ſo to ſituate the ſaid grammar ſchool-houſe, nor to the ſaid jurors ſo to locate the ſaid lands, as to include the manſion-houſe of the proprietor of the lands, nor the offices, curtilage, or garden, thereunto immediately belonging.

SECT. XI. THE ſaid overſeers ſhall forthwith proceed to have a houſe of brick or ſtone, for the ſaid grammar ſchool, with neceſſary offices, built on the ſaid lands, which grammer ſchool-houſe ſhall contain a room for the ſchool, a hall to dine in, four rooms for a maſter and uſher, and ten or twelve lodging rooms for the ſcholars.

SECT. XII. TO each of the ſaid grammar ſchools ſhall be allowed out of the public treaſury, the ſum of pounds, out of which ſhall be paid by the Treaſurer, on warrant from the Auditors, to the proprietors or tenants of the lands located, the value of their ſeveral intereſts as fixed by the jury, and the balance thereof ſhall be delivered to the ſaid overſeers to defray the expence of the ſaid buildings.

SECT. XIII. IN theſe grammar ſchools ſhall be taught the Latin and Greek languages, Engliſh grammar, geography, and the higher part of mumerical arithmetick, to wit, vulgar and decimal fractions, and the extraction of the ſquare and cube roots.

SECT. XIV. A viſiter from each county conſtituting the diſtrict ſhall be appointed, by the overſeers, for the county, in the month of October annually, either from their own body or from their county at large, which viſiters or the greater part of them, meeting together at the ſaid grammar ſchool on the firſt Monday in November, if fair, and if not, then on the next fair day, excluding Sunday, ſhall have power to chooſe their own Rector, who ſhall call and preſide at future meetings, to employ from time to time a maſter, and if neceſſary, an uſher, for the ſaid ſchool, to remove them at their will, and to ſettle the price of tuition to be paid by the ſcholars. They ſhall alſo viſit the ſchool twice in every year at the leaſt, either together or ſeparately at their diſcretion, examine the ſcholars, and ſee that any general plan of inſtruction recommended by the viſiters of William and Mary College ſhall be obſerved. The ſaid maſters and uſhers, before they enter on the execution of their office, ſhall give aſſurance of fidelity to the commonwealth.

SECT. XV. A ſteward ſhall be employed, and removed at will by the maſter, on ſuch wages as the viſiters ſhall direct; which ſteward ſhall ſee to the procuring proviſions, fuel, ſervants for cooking, waiting, houſe cleaning, waſhing, mending, and gardening on the moſt reaſonable terms; the expence of which, together with the ſteward's wages, ſhall be divided equally among all the ſcholars boarding either on the public or private expence. And the part of thoſe who are on private expence, and alſo the price of their tuitions due to the maſter or uſher, ſhall be paid quarterly by the reſpective ſcholars, their parents, or guardians, and ſhall be recoverable, if withheld, together with coſts, on motion in any Court of Record, ten days notice thereof being previouſly given to the party, and a jury impannelled to try the iſſue joined, or enquire of the damages. The ſaid ſteward ſhall alſo, under the direction of the viſiters, ſee that the houſes be kept in repair, and neceſſary encloſures be made and repaired, the accounts for which, ſhall, from time to time, be ſubmitted to the Auditors, and on their warrant paid by the Treaſurer.

SECT. XVI. EVERY overſeer of the hundred ſchools ſhall, in the month of September annually, after the moſt diligent and impartial examination and enquiry, appoint from among the boys who ſhall have been two years at the leaſt at ſome one of the ſchools under his ſuperintendance, and whoſe parents are too poor to give them farther education, ſome one of the beſt and moſt promiſing genius and diſpoſition, to proceed to the grammar ſchool of his diſtrict; which appointment ſhall be made in the court-houſe of the county, on the court day for that month, if fair, and if not, then on the next fair day, excluding Sunday, in the preſence of the Aldermen, or two of them at the leaſt, aſſembled on the bench for that purpoſe, the ſaid overſeer being previouſly ſworn by them to make ſuch appointment, without favor or affection, according to the beſt of his ſkill and judgment. and being interrogated by the ſaid Aldermen, either on their own motion, or on ſuggeſtions from the parents, guardians, friends, or teachers of the children, competitors for ſuch appointment; which teachers ſhall attend for the information of the Aldermen. On which interregatories the ſaid Aldermen, if they be not ſatisfied with the appointment propoſed, ſhall have right to negative it; whereupon the ſaid viſiter may proceed to make a new appointment, and the ſaid Aldermen again to interrogate and negative, and ſo toties quoties until an appointment be approved.

SECT. XVII. EVERY boy ſo appointed ſhall be authoriſed to proceed to the grammar ſchool of his diſtrict, there to be educated and boarded during ſuch time as is hereafter limited; and his quota of the expences of the houſe together with a compenſation to the maſter or uſher for his tuition, at the rate of twenty dollars by the year, ſhall be paid by the Treaſurer quarterly on warrant from the Auditors.

SECT. XVIII. A viſitation ſhall be held, for the purpoſe of probation, annually at the ſaid grammar ſchool on the laſt Monday in September, if fair, and if not, then on the next fair day, excluding Sunday, at which one third of the boys ſent thither by appointment of the ſaid overſeers, and who ſhall have been there one year only, ſhall be diſcontinued as public foundationers, being thoſe who, on the moſt diligent examination and enquiry, ſhall be thought to be of the leaſt promiſing genius and diſpoſition; and of thoſe who ſhall have been there two years, all ſhall be diſcontinued, ſave one only the beſt in genius and diſpoſition, who ſhall be at liberty to continue there four years longer on the public foundation, and ſhall thence forward be deemed a ſenior.

SECT. XIX. THE viſiters for the diſtricts which, or any part of which, be ſouthward and weſtward of James river, as known by that name, or by the names of Fluvanna and Jackſon's river, in every other year, to wit, at the probation meetings held in the years, diſtinguiſhed in the Chriſtian computation by odd numbers, and the viſiters for all the other diſtricts at their ſaid meetings to be held in thoſe years, diſtinguiſhed by even numbers, after diligent examination and enquiry as before directed, ſhall chuſe one among the ſaid ſeniors, of the beſt learning and moſt hopeful genius and diſpoſition, who ſhall be authoriſed by them to proceed to William and Mary College, there to be educated, boarded, and clothed, three years; the expence of which annually ſhall be paid by the Treaſurer on warrant from the Auditors.

CHAP. LXXX.

A BILL for amending the conſtitution of the College of William and Mary, and ſubſtituting more certain revenues for its ſupport.

SECTION I. WHEREAS a ſcheme for cultivating and diſſeminating uſeful knowledge in this country, which had been propoſed by ſome of its liberal minded inhabitants, before the year 1690 of the Chriſtian epocha, was approved, adopted, and cheriſhed, by the

General Assembly, upon whose petition King William and Queen Mary of England, to the crown whereof the people here at that time acknowledged themselves, as a colony, to be subject, by their charter, bearing date the seventh day of February, in the fourth year of their reign, gave license, in due form, to Francis Nicholson, Esquire, Lieutenant Governor of the colony, and seventeen other trustees, particularly named, to found a place of universal study, or perpetual college, in such part of the country as the General Assembly should think fit, consisting of a President, six Professors, and an hundred scholars, more or less; enabled the trustees, and their survivors, to take and hold lands, tenements, and hereditaments, to the yearly value of two thousand pounds, with intention, and in confidence, that, after application of the profits thereof, with such donations as by themselves and others might be made for that purpose, to the erecting, founding, and adorning the college, they should transfer the same to the President and Professors; appointed James Blair, clerk, the first President, and empowered the trustees, and their successors, to elect the succeeding President, and the Professors; willed the college, after it should be founded, to be called the College of William and Mary in Virginia; and incorporated the President and masters, enabling them and their successors to take and hold lands, tenements, hereditaments, goods and chattels, to the yearly value of two thousand pounds, of lawful money of England; appointed the trustees and their successors, to be elected in the manner therein prescribed, so as not to be less than eighteen, visiters of the College, with power to nominate one of themselves a rector annually, and to ordain statutes for the government of the College, not contrary to the royal prerogative, the laws of England or Virginia, or the canons of the Church of England; willed that the President and Professors should have a Chancellor, to be nominated, every seventh year, in the manner therein prescribed; granted to the trustees a sum of money, then in the hands of William Byrd, Esquire, the Auditor, received for quitrents, to be applied towards erecting, founding, and adorning the College; and also granted to the trustees, to be transferred to the President and Professors, in like manner as before directed, part of the then royal revenue, arising from the duty upon tobacco exported; and also granted to the said trustees the office of surveyor general of Virginia, with intention, and in confidence, that they and their successors, or the longest livers of them, should receive the profits thereof, until the foundation of the College, and when that should be effected, account for and pay the same or the surplus, above what should have been expended in that work, to the President and Professors; and that thereafter the said office should be held by the said President and Professors. And the said King and Queen, by their said charter, granted to the said trustees ten thousand acres of land, on the south side of the Blackwater swamp, and also other ten thousand acres of land in Pamunkey neck, between the forks or branches of York river, with this intention, and in confidence, that the said trustees, or the longest livers of them, should transfer the said twenty thousand acres of land, after the foundation of the College, to the President and Professors; as by the said charter, among other things, relation being thereunto had, may more fully appear. And whereas voluntary contributions towards forwarding this beneficial scheme, the sum whereof exceeded two thousand pounds, sterling, was received by the said trustees, with one thousand pounds, sterling, out of the money arising from the quitrents granted to the use of the said College by Queen Anne, part whereof was applied to the purchase of three hundred and thirty acres of land at the middle plantation, being the same place at which the General Assembly, by their act, passed in the year 1693, had directed the said College to be built, and whereon the same was accordingly built, and the General Assembly, by one other act, passed in the same year 1693, intitled an Act for laying an imposition upon skins and furs, for the better support of the College of William and Mary in Virginia, endowed the said College with certain duties on skins and furs therein specified, which duties were afterwards enlarged and confirmed to the use of the said College, and made payable to the President and Professors by divers other acts of General Assembly. And by one other act passed in the year 1718, the said College was further endowed by the General Assembly with the sum of one thousand pounds, out of the public funds, in the hands of the Treasurer, which was directed to be laid out for the maintaining and educating scholars, and to be accounted for to the General Assembly, from time to time, when required: Which sum was accordingly paid to the said visiters, and by them invested in the purchase of two thousand one hundred and nineteen acres of land, on both sides of Nottoway river, in the counties of Prince George, Surry, and Brunswick, and seventeen negro slaves, to be employed in tilling and manuring the same, and certain scholarships were accordingly established on the said funds; and the General Assembly, by their act, passed in the year 1726, and intitled an Act for laying a duty on liquors, further endowed the said College with an annual revenue of two hundred pounds, for twenty one years, to be paid out of certain duties thereon imposed on liquors, and by one other act, passed in the year 1734, endowed it with the whole of the said duties, during the residue of the said term then unexpired, a part or the whole thereof to be expended in purchasing a library for the said College: And by divers other acts, passed at subsequent times, the Assemblies, for the times being, having continued to the said College the whole of the annual revenues, arising from the said duties, until the first of June, which shall be in the year 1780, to be applied to the funding scholarships, and other good uses, for the support of the said College, and to be accounted for to the General Assembly; and the said General Assembly by of in the year gave a further donation to the said College of to be laid out in purchasing a mathematical apparatus for the said College, which was accordingly purchased. And the said trustees, in pursuance of the trust reposed in them, proceeded to erect the said College, and established one school of sacred theology, with two professorships therein, to wit, one for teaching the Hebrew tongue, and expounding the holy scriptures; and the other for explaining the common places of divinity, and the controversies with heretics; one other school for philosophy, with two professorships therein, to wit, one for the study of rhetoric, logic, and ethics, and the other of physics, metaphysics, and mathematics; one other school for teaching the Latin and Greek tongues; and one other for teaching Indian boys reading, writing, vulgar arithmetic, the catechism and the principles of the Christian religion; which last school was founded on the private donation of the honorable Robert Boyle, of the kingdom of England, and, by authority from his executors, submitted to the direction of the Earl of Burlington, one of the said executors, of the bishop of London, for the time being, and in default thereof, to the said trustees; and over the whole they appointed one president as supervisor.

SECT. II. AND whereas the experience of near an hundred years hath proved, that the said College, thus amply endowed by the public, hath not answered their expectations, and there is reason to hope, that it would become more useful, if certain articles in its constitution were altered and amended, which being fixed, as before recited, by the original charters, cannot be reformed by the said trustees, whose powers are created and circumscribed by the said charter, and the said College being erected and constituted on the requisition of the General Assembly, by the Chief Magistrate of the state, their legal fiduciary for such purposes, being founded and endowed with the lands and revenues of the public, and intended for the sole use and improvement, and no wise in nature of a private grant, the same is of right subject to the public direction, and may by them be altered and amended, until such form be devised as will render the institution publicly advantageous, in proportion as it is publicly expensive; and the late change in the form of our government, as well as the contest of arms in which we are at present engaged, calling for extraordinary abilities both in council and field, it becomes the peculiar duty of the Legislature, at this time, to aid and improve that seminary, in which those who are to be the future guardians of the rights and liberties of their country may be endowed with science and virtue, to watch and preserve the sacred deposit: BE it therefore enacted by the General Assembly, that, instead of eight visiters

or governors of the ſaid College, there ſhall in future be five only, who ſhall be appointed by joint ballot of both houſes of Aſſembly, annually, to enter on the duties of their office on the new year's day enſuing their appointment, having previouſly given aſſurance of fidelity to the commonwealth, before any Juſtice of the Peace; and to continue in office until thoſe next appointed ſhall be qualified, but thoſe who ſhall be firſt appointed, after the paſſing of this act, and all others appointed during the courſe of any year to fill up vacancies happening by death, reſignation, or removal out of the commonwealth, ſhall enter on duty immediately on ſuch appointment; any four of the ſaid viſiters may proceed to buſineſs; they ſhall chuſe their own Rector, at their firſt meeting, in every year, and ſhall be deemed the lawful ſucceſſors of the firſt truſtees, and inveſted with all the rights, powers, and capacities given to them, ſave only ſo far as the ſame ſhall be abridged by this act, nor ſhall they be reſtrained in their legiſlation, by the royal prerogative, or the laws of the kingdom of England; or the canons or conſtitution of the Engliſh Church, as enjoined in the ſaid charter. There ſhall be three Chancellors, in like manner appointed by joint ballot of both houſes, from among the Judges of the High Court of Chancery, or of the General Court, to enter on their office immediately on ſuch appointment, and to continue therein ſo long as they remain in either of the ſaid courts; any two of whom may proceed to buſineſs; to them ſhall belong ſolely the power of removing the Profeſſors, for breach or neglect of duty, immorality, ſeverity, contumacy, or other good cauſe, and the judiciary powers in all diſputes, which ſhall ariſe on the ſtatutes of the College, being called on for that purpoſe by the Rector, or by the corporation of Preſident and Profeſſors, a copy of their ſentence of deprivation, being delivered to the ſheriff of the county wherein the College is, he ſhall forthwith cauſe the Profeſſor deprived to be ouſted of his chambers and other freehold appertaining to the ſaid College, and the remaining Profeſſors to be reſeized thereof, in like manner and form, and ſubject, on failure, to the like fines by the ſaid Chancellors, as in caſes of writs of habere facias ſeiſinam iſſued from Courts of Record. But no perſon ſhall be capable of being both viſiter and Chancellor at the ſame time; nor ſhall any Profeſſor be capable of being at the ſame time either viſiter or Chancellor. Inſtead of the Preſident and ſix Profeſſors, licenſed by the ſaid charter, and eſtabliſhed by the former viſiters, there ſhall be eight Profeſſors, one of whom ſhall alſo be appointed Preſident, with an additional ſalary of one hundred pounds a year, before they enter on the execution of their office, they ſhall give aſſurance of fidelity to the commonwealth, before ſome Juſtice of the Peace. Theſe ſhall be deemed the lawful ſucceſſors of the Preſident and Profeſſors appointed under the ſaid charter, and ſhall have all their rights, powers and capacities, not otherwiſe diſpoſed of by this act; to them ſhall belong the ordinary government of the College, and adminiſtration of its revenues, taking the advice of the viſiters on all matters of great concern. There ſhall, in like manner, be eight Profeſſorſhips, to wit, one of moral philoſophy, the laws of nature and of nations, and of the fine arts; one of law and police; one of hiſtory, civil and eccleſiaſtical; one of mathematics; one of anatomy and medicine; one of natural philoſophy and natural hiſtory; one of the ancient languages, oriental and nothern; and one of modern languages. The ſaid Profeſſors ſhall likewiſe appoint, from time to time, a miſſionary, of approved veracity, to the ſeveral tribes of Indians, whoſe buſineſs ſhall be to inveſtigate their laws, cuſtoms, religions, traditions, and more particularly their languages, conſtructing grammars thereof, as well as may be, and copious vocabularies, and, on oath, to communicate, from time to time, to the ſaid Preſident and Profeſſors the materials he collects, to be by them laid up and preſerved in their library; for which trouble the ſaid miſſionary ſhall be allowed a ſalary at the diſcretion of the viſiters, out of the revenues of the College. And forasmuch as the revenue, ariſing from the duties on ſkins and furs, and thoſe on liquors, with which the ſaid College was endowed, by ſeveral acts of General Aſſembly, is ſubject to great fluctuations, from circumſtances unforeſeen, inſomuch that no calculation or foreſight can enable the ſaid viſiters or Profeſſors to ſquare thereto the expenditures of the ſaid College, which being regular and permanent ſhould depend on ſtable funds; BE it therefore enacted, that the revenue ariſing from the ſaid duties, ſhall be henceforth transferred to the uſe of the public, to be applied towards ſupporting the contingent charges of government, and that, in lieu thereof, the ſaid College ſhall be endowed with an impoſt of five pounds of tobacco, on every hogſhead of tobacco, to be exported from this commonwealth, by land, or by water, to be paid to the inſpectors, if ſuch tobacco be carried to any public ware-houſe, by the perſon receiving the ſaid tobacco from them, and by the ſaid inſpectors accounted for, on oath, to the ſaid Preſident and Profeſſors on or before the 10th day of October, in every year, with an allowance of ſix per centum for their trouble; and if the ſaid tobacco be not carried to any public ware-houſe, then the ſaid impoſt ſhall be paid, collected, and accounted for to the ſaid Preſident and Profeſſors, by the ſame perſons, at the ſame times, in and under the like manner, penalties and conditions, as preſcribed by the laws, which ſhall be in force at the time, for collecting the duties impoſed on exported tobacco, towards raiſing ſupplies of money for the public exigencies. And that this commonwealth may not be without ſo great an ornament, nor its youth ſuch an help towards attaining aſtronomical ſcience, as the mechanical repreſentation, or model of the ſolar ſyſtem, conceived and executed by that greateſt of aſtronomers, David Ryttenhouſe; BE it further enacted, that the viſiters, firſt appointed under this act, and their ſucceſſors, ſhall be authoriſed to engage the ſaid David Ryttenhouſe, on the part of this commonwealth, to make and erect in the ſaid College of William and Mary, and for its uſe, one of the ſaid models, to be called by the name of the Ryttenhouſe, the coſt and expence of making, tranſporting and erecting whereof ſhall, according to the agreement or allowance of the ſaid viſiters, be paid by the Treaſurer of this commonwealth, on warrant from the Auditors.

A P P E N D I X.

I. Ethics, { Moral Philoſophy. / Law of Nature. / Law of Nations.
I. Fine Arts. { Sculpture. / Painting. / Gardening. / Muſic. / Architecture. / Poetry. / Oratory. / Criticiſm.

II. Law. { Municipal. { Common Law. / Equity. / Law Merchant. / Law Maritime. / Law Eccleſiaſtical.
II. Law. { Oeconomical. { Politics. / Commerce.

III. Hiſtory. { Civil. / Eccleſiaſtical.

IV. Mathematics. { Pure. { Arithmetic. / Geometry.
IV. Mathematics. { Mixed. { Mechanics. / Optics. / Acouſtics. / Aſtronomy.

V. { Anatomy. / Medecine.

VI. { Natural Philoſophy { Chymiſtry. / Statics. / Hydroſtatics. / Pneumatics. / Agriculture.
VI. { Natural Hiſtory. { Animals—Zoology. / Vegetables—Botany. / Minerals—Mineralogy.

VII. Ancient Languages.	Oriental.	Hebrew. Chaldee. Syriac.	VIII. Modern Languages.	French. Italian. German.
	Northern.	Moeso Gothic. Anglo Saxon. Old Icelandic.	Missionary for Indian History, &c.	

CHAP. LXXXI.

A BILL for eſtabliſhing a public Library.

SECTION I. BE it enacted by the General Aſſembly, that on the firſt day of January, in every year, there ſhall be paid out of the treaſury the ſum of two thouſand pounds, to be laid out in ſuch books and maps as may be proper to be preſerved in a public library, and in defraying the expences neceſſary for the care and preſervation thereof; which library ſhall be eſtabliſhed at the town of Richmond.

SECT. II. THE two houſes of Aſſembly ſhall appoint three perſons of learning and of attention to literary matters, to be viſitors of the ſaid library, and ſhall remove them, or any of them, and fill any vacancies, from time to time, as they ſhall think fit; which viſiters ſhall have power to receive the annual ſums beforementioned, and therewith to procure ſuch books and mays as aforeſaid, and ſhall ſuperintend the preſervation thereof. Whenſoever a keeper ſhall be found neceſſary they ſhall appoint ſuch keeper, from time to time, at their will, on ſuch annual ſalary (not exceeding one hundred pounds) as they ſhall think reaſonable.

SECT. III. IF during the time of war the importation of books and maps ſhall be hazardous, or if the rate of exchange between this commonwealth and any ſtate from which ſuch articles are wanted, ſhall from any cauſe be ſuch that they cannot be imported to ſuch advantage as may be hoped at a future day, the viſiters ſhall place the annual ſums, as they become due, in the public loan office, if any there be, for the benefit of intereſt, or otherwiſe ſhall ſuffer them to remain in the treaſury until fit occaſions ſhall occur of employing them.

SECT. IV. IT ſhall not be lawful for the ſaid keeper, or the viſiters themſelves, or any other perſon to remove any book or map out of the ſaid library, unleſs it be for the neceſſary repair thereof; but the ſame ſhall be made uſeful by indulging the reſearches of the learned and curious, within the ſaid library, without fee or reward, and under ſuch rules for preſerving them ſafe and in good order and condition as the viſiters ſhall conſtitute.

SECT. V. THE viſiters ſhall annually ſettle their accounts with the Auditors and leave with them the vouchers for the expenditure of the monies put into their hands.

CHAP. LXXXII.

A BILL for eſtabliſhing religious freedom.

SECTION I. WELL aware that the opinions and belief of men depend not on their own will, but follow involuntarily the evidence propoſed to their minds; that Almighty God hath created the mind free, and manifeſted his ſupreme will that free it ſhall remain by making it altogether inſuſceptible of reſtraint; that all attempts to influence it by temporal puniſhments, or burthens, or by civil incapacitations, tend only to beget habits of hypocriſy and meanneſs, and are a departure from the plan of the holy author of our religion, who being lord both of body and mind, yet choſe not to propagate it by coercions on either, as was in his Almighty power to do, but to extend it by its influence on reaſon alone; that the impious preſumption of legiſlators and rulers, civil as well as eccleſiaſtical, who, being themſelves but fallible and uninſpired men, have aſſumed dominion over the faith of others, ſetting up their own opinions and modes of thinking as the only true and infallible, and as ſuch endeavoring to impoſe them on others, hath eſtabliſhed and maintained falſe religions over the greateſt part of the world and through all time: That to compel a man to furniſh contributions of money for the propagation of opinions which he diſbelieves and abhors, is ſinful and tyrannical; that even the forcing him to ſupport this or that teacher of his own religious perſuaſion, is depriving him of the comfortable liberty of giving his contributions to the particular paſtor whoſe morals he would make his pattern, and whoſe powers he feels moſt perſuaſive to righteouſneſs; and is withdrawing from the miniſtry thoſe temporary rewards, which proceeding from an approbation of their perſonal conduct, are an additional incitement to earneſt and unremitting labours for the inſtruction of mankind; that our civil rights have no dependance on our religious opinions, any more than our opinions in phyſics or geometry; that therefore the proſcribing any citizen as unworthy the public confidence by laying upon him an incapacity of being called to offices of truſt and emolument, unleſs he profeſs or renounce this or that religious opinion, is depriving him injuriouſly of thoſe privileges and advantages to which, in common with his fellow citizens, he has a natural right; that it tends alſo to corrupt the principles of that very religion it is meant to encourage, by bribing, with a monopoly of worldly honours and emoluments, thoſe who will externally profeſs and conform to it; that though indeed theſe are criminal who do not withſtand ſuch temptation, yet neither are thoſe innocent who lay the bait in their way; that the opinions of men are not the object of civil government, nor under its juriſdiction; that to ſuffer the civil magiſtrate to intrude his powers into the field of opinion and to reſtrain the profeſſion or propagation of principles on ſuppoſition of their ill tendency is a dangerous fallacy, which at once deſtroys all religious liberty, becauſe he being of courſe judge of that tendency will make his opinions the rule of judgment, and approve or condemn the ſentiments of others only as they ſhall ſquare with or differ from his own; that it is time enough for the rightful purpoſes of civil government for its officers to interfere when principles break out into overt acts againſt peace and good order; and finally, that truth is great and will prevail if left to herſelf; that ſhe is the proper and ſufficient antagoniſt to error, and has nothing to fear from the conflict unleſs by human interpoſition diſarmed of her natural weapons, free argument and debate; errors ceaſing to be dangerous when it is permitted freely to contradict them.

SECT. II. WE the General Aſſembly of Virginia do enact that no man ſhall be compelled to frequent or ſupport any religious worſhip, place, or miniſtry whatſoever, nor ſhall be enforced, reſtrained, molested, or burthened in his body or goods, nor ſhall otherwiſe ſuffer, on account of his religious opinions or belief; but that all men ſhall be free to profeſs, and by argument to maintain, their opinions in matters of religion, and that the ſame ſhall in no wiſe diminiſh, enlarge, or affect their civil capacities.

SECT. III. AND though we well know that this Aſſembly, elected by the people for the ordinary purpoſes of legiſlation only, have no power to reſtrain the acts of ſucceeding Aſſemblies, conſtituted with powers equal to our own, and that therefore to declare this act irrevocable would be of no effect in law; yet we are free to declare, and do declare, that the rights hereby aſſerted are of the natural rights of mankind, and that if any act ſhall be hereafter paſſed to repeal the preſent or to narrow its operation, ſuch act will be an infringement of natural right.

CHAP. LXXXIII.

A BILL for ſaving the property of the Church heretofore by law eſtabliſhed.

SECTION I. BE it enacted by the General Aſſembly, that the ſeveral tracts of Glebe land, the churches, and chapels, the books, veſtments, plate and ornaments, all arrears of money and tobacco, and all property real and perſonal of private donation, which on the ſeventh day of October, in the year one thouſand ſeven hundred and ſeventy ſix, were veſted in any perſons whatever for the uſe of the Engliſh church till then eſtabliſhed by law, or were due or contracted for, bona fide, on that day, or which ſince that time have legally become ſo veſted, due, or contracted for, ſhall be ſaved in all time to come to the members of the ſaid Engliſh church, by whatever denomination they ſhall henceforth call themſelves, who ſhall be reſident within the ſeveral pariſhes as they ſtood diſtinguiſhed by metes and bounds on the ſame day, thoſe of each pariſh to have the ſeparate and legal property of the ſaid articles belonging to their reſpective pariſhes, and to apply them from year to year, by themſelves, or by agents to be appointed by themſelves as they ſhall hereafter agree, for and towards the ſupport of their miniſtry; and that no future change in the form of their church government, ordination of their miniſtry, or rituals of worſhip, ſhall take away or affect the benefit of this ſaving.

SECT. II. THE ſurviving veſtrymen in every pariſh ſhall have authority to carry into execution all contracts legally and bona fide made by themſelves, or their predeceſſors, before the firſt day of January, in the year 1777, and to provide for the payment of all arrears of ſalaries due to miniſters or readers for ſervices performed before that day, by a levy, if they have not already on hand money or tobacco ſufficient, and for theſe purpoſes may ſue or be ſued as might have been heretofore where veſtries were full.

SECT. III. WHERE any pariſh hath been altered in its bounds, the inhabitants thereof ſhall nevertheleſs rem in liable for their proportionable part of all monies or tobaccoes due, and all contracts legally made, before ſuch diviſion or alteration, to be apportioned on them and levied by the veſtry of the reſpective pariſh into which they are incorporated by ſuch diviſion or alteration.

SECT. IV. AND whereas veſtries although authoriſed by law to levy on their pariſhoners ſo much only as was ſufficient to anſwer the legal demands on their pariſh, actually exiſting, yet frequently levied more, ſo that there remained on their hands a depoſitum to be applied to the future uſes of their reſpective pariſhes, and it may have happened that in ſome inſtances ſuch depoſitums were on hand on the ſaid firſt day of January, in the year one thouſand ſeven hundred and ſeventy ſeven, after all legal demands ſatisfied, which were then exiſting, or which by this act are made legal; and alſo debts may have been owing to ſome pariſhes, BE it therefore enacted, that ſuch depoſitums and debts ſhall be applied to the maintenance of the poor of ſuch pariſhes, where it hath not already been done, in caſe of the poor rates to be levied for that purpoſe in future; and in the caſe of any ſuch pariſh ſince then divided or altered, or lying in different counties, ſuch eaſement ſhall be divided and apportioned in the ſame way as burthens in a like caſe are herein before directed to be apportioned. But where any pariſh has no glebe ſuch depoſitums and debts, or the proportion thereof, belonging to ſuch pariſh, ſhall be applied towards purchaſing a glebe, the property and application of which ſhall be in the ſame perſons and for the ſame uſes, and according to the ſame rules as would have been by the former part of this act, had the ſaid glebe been purchaſed before the paſſing hereof.

CHAP. LXXXIV.

A BILL for puniſhing diſturbers of religious worſhip and Sabbath breakers.

SECTION I. BE it enacted by the General Aſſembly, that no officer, for any civil cauſe, ſhall arreſt any miniſter of the goſpel, licenſed according to the rules of his ſect, and who ſhall have taken the oath of fidelity to the commonwealth, while ſuch miniſter ſhall be publicly preaching or performing religious worſhip in any church, chapel, or meeting-houſe, on pain of impriſonment and amercement, at the diſcretion of a jury, and of making ſatisfaction to the party ſo arreſted.

SECT. II. AND if any perſon ſhall of purpoſe, maliciouſly, or contemptuouſly, diſquiet or diſturb any congregation aſſembled in any church, chapel, or meeting-houſe, or miſuſe any ſuch miniſter being there, he may be put under reſtraint during religious worſhip, by any Juſtice preſent, which Juſtice, if preſent, or if none be preſent, then any Juſtice before whom proof of the offence ſhall be made, may cauſe the offender to find two ſureties to be bound by recognizance in a ſufficient penalty for his good behavior, and in default thereof ſhall commit him to priſon, there to remain till the next court to be held for the ſame county; and upon conviction of the ſaid offence before the ſaid court, he ſhall be further puniſhed by impriſonment and amercement at the diſcretion of a jury.

SECT. III. IF any perſon on Sunday ſhall himſelf be found labouring at his own or any other trade or calling, or ſhall employ his apprentices, ſervants or ſlaves in labour, or other buſineſs, except it be in the ordinary houſhold offices of daily neceſſity, or other work of neceſſity or charity, he ſhall forfeit the ſum of ten ſhillings for every ſuch offence, deeming every apprentice, ſervant, or ſlave ſo employed, and every day he ſhall be ſo employed as conſtituting a diſtinct offence.

CHAP. LXXXV.

A BILL for appointing days of public faſting and thankſgiving.

SECTION I. BE it enacted by the General Aſſembly, that the power of appointing days of public faſting and humiliation, or thankſgiving, throughout this commonwealth, may in the receſs of the General Aſſembly, be exerciſed by the Governor, or Chief Magiſtrate;

with the advice of the Council; and ſuch appointment ſhall be notified to the public, by a proclamation, in which the occaſion of the faſting or thankſgiving ſhall be particularly ſet forth. Every miniſter of the goſpel ſhall on each day ſo to be appointed, attend and perform divine ſervice and preach a ſermon, or diſcourſe, ſuited to the occaſion, in his church, on pain of forfeiting fifty pounds for every failure, not having a reaſonable excuſe.

CHAP. LXXXVI.

A BILL *annulling marriages prohibited by the Levitical law, and appointing the mode of ſolemnizing lawful marriage.*

SECTION I. BE it enacted by the General Aſſembly, that marriages prohibited by the Levitical law ſhall be null; and perſons marrying contrary to that prohibition, and cohabiting as man and wife, convicted thereof in the General Court, ſhall be amerced, from time to time, until they ſeparate. A marriage between a perſon of free condition and a ſlave, or between a white perſon and a negro, or between a white perſon and a mulatto, ſhall be null. Where a perſon, by inquiſition taken by virtue of a commiſſion iſſuing out of the High Court of Chancery, ſhall be found a lunatic, if, before ſuch perſon ſhall be declared of ſane mind by the Judges of the ſaid court, or two of them, he or ſhe ſhall marry, ſuch marriage ſhall be null. And a marriage between any perſons whatſoever, unleſs it be with ſuch license, and, moreover if both or either of the parties not having been married before, be under the age of twenty one years, with ſuch conſent, as herein after directed, ſhall be null. The marriage license ſhall be iſſued by the clerk of the court of that county, in which the woman ſhall have reſided for the laſt preceeding four weeks, at the leaſt, in this form or to this effect. A B, of the hundred of in the county of and C D, of the hundred of in the county of are hereby licenſed to be joined together in matrimony; and ſhall be ſigned by the firſt acting Juſtice of the Peace, of the ſame county, who ſhall then be therein; but the clerk ſhall not iſſue the license, until the father or guardian of any party who, not having been lawfully married before, ſhall be under the age of twenty one years, ſhall have perſonally declared, or by writing under his hand and ſeal, atteſted by two witneſſes, ſhall have ſignified, his conſent to the marriage to the clerk, which conſent the clerk ſhall certify at the foot or on the back of the license, and ſhall certify in a ſeparate paper to the Juſtice of the Peace. Any clerk, required to iſſue a license without ſuch declaration or ſignification of a father's or guardian's conſent, and doubting whether a party be of full age, or not, may ſuſpend iſſuing the license until the then next court day of his county, unleſs he ſhall be ſooner ſatisfied, when the fact ſhall be enquired of by a jury, and according to their verdict he ſhall govern himſelf in iſſuing or refuſing the license. Any clerk who ſhall iſſue a marriage license, when the parties, or either of them, ſhall be under the age of twenty one years, without ſuch conſent, declared or ſignified as aforeſaid, ſhall be liable to the action of the father or guardian of the infant, or of each infant mentioned in the license, for damages; which damages, in caſe of a ſuit brought by the guardian, ſhall be to the uſe of the ward; and the clerk ſhall moreover be deprived of his office. Perſons who having obtained ſuch license, as before is directed, ſhall, in preſence of witneſſes, declare or yeild their conſent to be married together, ſhall, without further ceremony, be deemed man and wife, as effectually as if the contract had been ſolemnized, and the eſpouſals celebrated, in the manner preſcribed by the ritual of any church, or according to the cuſtom of any religious ſociety, whereof they are members. The clerk iſſuing licenſes ſhall keep a correct regiſter of them, and the Juſtices ſigning them ſhall report ſuch ſignature, within ſix months thereafter, to the court of his county, which report ſhall be entered by the clerk in ſuch regiſter; and whoſoever ſhall neglect his duty in theſe particulars, or any of them, ſhall be amerced.

CHAP. LXXXVII.

A BILL *againſt uſury.*

SECTION I. BE it enacted by the General Aſſembly, that no perſon ſhall hereafter, upon any contract take, directly or indirectly, for loan of any money, wares, or merchandize, or other commodity, above the value of five pounds, for the forbearance of one hundred pounds, for a year, and, after that rate, for a greater or leſſer ſum, or for a longer or ſhorter time; and all bonds, contracts, covenants, conveyances, or aſſurances, hereafter to be made, for payment or delivery of any money, or goods, ſo to be lent, on which a higher intereſt is reſerved or taken, than is hereby allowed, ſhall be utterly void. If any perſon ſhall, by any way, or means of any corrupt bargain, loan, exchange, ſhift, covin, device, or deceit, take, accept, or receive, for the loan of, or giving day of payment for money, wares, merchandize, or other commodity, above the rate of five pounds, for one hundred pounds, for one year, every perſon ſo offending, ſhall forfeit double the value of the money, wares, merchandize, or commodity, ſo lent, exchanged, or ſhifted, one moiety to the uſe of the commonwealth, and the other to the informer, to be recovered, with coſts. Any borrower of money or goods may exhibit a bill in Chancery, againſt the lender, and compel him to diſcover, upon oath, the money or thing really lent; and all bargains, contracts, or ſhifts, which ſhall have paſſed between them, relative to ſuch loan, or the repayment thereof, and the intereſt or conſideration for the ſame; and if, thereupon, it ſhall appear, that more than lawful intereſt was reſerved, the lender ſhall be obliged to accept his principal money, without any intereſt, or other conſideration, and pay coſts, but ſhall be diſcharged of all other penalties of this act. Every broker, ſolicitor, or driver of bargains, who ſhall hereafter, directly or indirectly, take or receive more than the rate or value of five ſhillings, for brokerage, or ſoliciting, the loan or forbearance of one hundred pounds, for a year, or above one ſhilling for making or renewing the bond or bill, for ſuch loan or forbearance, or for any counter-bond or bill, concerning the ſame, ſhall forfeit, for every offence, twenty pounds to the commonwealth and informer, to be recovered, and divided, as herein before is mentioned.

CHAP. LXXXVIII.

A BILL *to prevent gaming.*

SECTION I. BE it enacted by the General Aſſembly, that every promiſe, agreement, note, bill, bond, or other contract, to pay, deliver, or ſecure money, or other thing, won, or obtained, by playing at cards, dice tables, tennis bowles, or other game, or by betting or laying on the hands or ſides of any perſon who ſhall play at ſuch games, or won, or obtained, by betting or laying on any horſe race, or cockfighting, or at any other ſport or paſtime, or on any wager,

whatſoever, or to repay or ſecure, money or other thing lent or advanced for that purpoſe, or lent or advanced at the time of ſuch gaming, ſporting, or wager, to a perſon then actually playing, betting, laying, or adventuring ſhall be void. Any conveyance or leaſe of lands, tenements, or hereditaments, ſold, demiſed, or mortgaged to any perſon for his uſe, to ſatisfy or ſecure money, or other thing by him won of, or lent or advanced to, the ſeller, leaſor, or mortgager, or whereof money or other thing ſo won, or lent or advanced ſhall be part or all of the conſideration money ſhall be void.

SECT. II. IF any perſon by playing or betting at any game, or wager whatſoever, in any houſe public or private, and at any time within the ſpace of twenty four hours, ſhall looſe or win, to or from another a greater ſum or any thing of greater value than pounds, the looſer or winner, ſhall be liable to pay ten ſhillings in the pound, for every pound over and above the ſaid ſum of pounds, which he ſhall ſo win or loſe, and upon information thereof made to any county court, and due proof thereof had, ſuch county court ſhall levy, upon the goods and chattels of the offenders, the full penalty incurred, to be applied to leſſening the levy of the county wherein ſuch offence ſhall be committed.

SECT. III. ANY perſon who ſhall bet or play for money, or other goods, or who ſhall bet on the hands or ſides of thoſe who play at any game in a tavern, racefield, or other place of public reſort, ſhall be deemed an infamous gambler, and ſhall not be eligible to any office of truſt or honor within this ſtate.

SECT. IV. ANY tavern keeper who ſhall permit cards, dice, or billiards, to be made uſe of in his houſe, or ſhall permit any perſon to bet or play for money or other goods, in any out-houſe, or under any booth or arbour upon the meſſuage, or tenement he poſſeſſes, and ſhall not make information thereof, and give in the names of the offenders to the next court, which may be held for the county, city, or borough, wherein he reſides, ſhall be deprived of his licenſe, and moreover ſhall pay to the informer one hundred pounds, to be recovered by action of debt in any Court of Record.

SECT. V. TWO Juſtices of the Peace may cauſe any perſon not poſſeſſing a viſible eſtate, nor exerciſing ſome lawful trade or profeſſion, who ſhall be ſuſpected by them to ſupport himſelf for the moſt part by gaming, to come or be brought before them, and if the ſuſpicion, appear upon examination, to be well founded, may require ſecurity of him for his good behavior during the term of twelve months, and if before the expiration thereof he ſhall play for, or bet any money or other thing, at any game whatſoever, he ſhall be adjudged to have broken the condition of his recognizance.

SECT VI. NO perſon in order to raiſe money for himſelf or another, ſhall publicly or privately put up a lottery of blanks and prizes to be drawn or adventured for, or any prize or thing to be raffled or played for, and whoever ſhall offend herein ſhall forfeit the whole ſum of money propoſed to be raiſed by ſuch lottery, raffling or playing, to the uſe of the commonwealth.

SECT. VII THIS act ſhall be in force after due publication thereof, and all other acts reſpecting gaming ſtand hereby repealed.

CHAP. LXXXIX.

A BILL *to prevent foreſtalling, regrating, and engroſſing, and ſales by auction.*

SECTION I. BE it enacted by the General Aſſembly, that if any perſon ſhall buy, or cauſe to be bought, any goods, wares, merchandize, or victual, which at the time of purchaſe ſhall be under carriage or tranſportation to any market or fair within this commonwealth, to be ſold therein, or to any city or town wherein there is no public market eſtabliſhed or to any port or harbour of this commonwealth for ſale, or ſhall make any bargain, contract, or promiſe, for the buying or having ſuch goods, or the pre-emption thereof, before the ſame ſhall be in or at the market, fair, city, town, port or harbour, ready to be there ſold, or ſhall perſuade any perſon coming to this commonwealth, or any market therein, to forbear bringing any goods, wares, or merchandize thereto, or uſe any means or device for the enhancing of the price of any ſuch goods in this commonwealth, or any market therein, every ſuch perſon offending in either of the ſaid particulars is declared a foreſtaller. But this act ſhall not extend to any perſon living more than two miles from any town within this commonwealth, and purchaſing any victuals goods, or commodities, neceſſary for the uſe and conſumption of himſelf and his family, or thoſe in his employ, for one year. If any perſon ſhall, by any means, buy, obtain, or get into his poſſeſſion, in any fair, or market, any victual, that ſhall have been brought to the ſaid fair or market, to be ſold, and ſhall make ſale thereof again, in the ſame place, or in any other place, within two miles thereof, he is declared a regrater. If any perſon ſhall buy within this commonwealth, to ſell again, in this or any of the confederating ſtates of America, any goods, wares, merchandize, or victual, which ſhall have been imported or brought into this commonwealth, from any other place whatſoever, or any commodities, manufactures, or materials for manufacture, raiſed or wrought within this ſtate, except ſuch purchaſe be made from the original importer, owner, maker, or manufacturer of ſuch goods, wares, merchandize, victual, commodities, manufactures, or materials for manufacture, reſpectively, or ſhall buy to ſell again, any victual raiſed within this commonwealth, every perſon ſo offending is declared an engroſſer. But this act ſhall not extend to any perſon purchaſing ſuch articles from one who purchaſed from the importer, and retailing the ſame more than twenty five miles from any tide water; nor to any agent of this commonwealth, or of the confederating ſtates of America, or any of them purchaſing neceſſaries, really and bona fide, for the uſe of the army or navy, and not dealing in ſuch articles on the account of himſelf or any other private perſons (ſuch agent for the confederating ſtates, or any of them, producing, whenſoever called on, ſufficient proof of his acting under authority from the confederating ſtates, or ſome one of them) nor to the managers of any ironworks, purchaſing neceſſaries for the uſe of thoſe employed about ſuch ironworks, and ſelling them to ſuch perſons; nor to the purchaſers of materials for manufacture, which ſhall be really applied to that uſe in the family of the purchaſer, or ſome manufactory wherein he is intereſted; nor to ordinary keepers, purchaſing victual to be retailed in their ordinaries, or perſons keeping private houſes for lodging or entertainment, who may buy any kind of victual, and retail the ſame in their reſpective houſes after it is prepared and dreſſed for the table; nor to perſons purchaſing wheat to grind into flour or malt; nor to bakers purchaſing flour, and ſelling the ſame in bread; nor to graziers or butchers purchaſing live ſtock, and ſelling the ſame after ſlaughter; nor to the owners of any imported goods ſold as being damaged for the benefit of enſurers, or condemned in the Admiralty, and purchaſed by the ſaid owners. Every perſon becoming a foreſtaller, regrater, or engroſſer, as before deſcribed, ſhall, on conviction, for the firſt offence, ſuffer impriſonment, by the ſpace of one month, without bail or mainpriſe and forfeit the value of the things ſo by him bought or ſold, and for the ſecond offence ſhall be impriſoned two months, without bail or mainpriſe, and ſhall forfeit double the value of the things ſo by him bought or ſold, and for any ſuch offence afterwards committed ſhall ſtand in the pillory for ſuch time as the court ſhall direct, not exceeding two hours, ſhall forfeit treble the value of the things by him bought or ſold,

and be imprisoned at the discretion of the jury convicting him of the said offence; provided such imprisonment doth not exceed three months. No goods, wares, merchandize, victual, commodities, manufactures, or materials for manufacture, imported into this commonwealth, or raised or manufactured within the same (except slaves, flocks, houshold furniture, goods condemned in the Admiralty Court, or goods which being damaged are by the law and custom of merchants to be sold for the benefit of insurers, victual, or goods sold on account and for the benefit of the confederating states of America, or some one of them, goods taken in execution, or upon attachments, or distrained for rent or public taxes, or sold by executors, or administrators) shall be exposed to sale at public vendue, under penalty on each person selling or buying at such vendue, for each article so sold, of double the value thereof. All the penalties hereby inflicted shall be one half to the use of the commonwealth, and the other to the informer; and, where the sum doth not exceed twenty five shillings, shall be recoverable with costs, before any Justice of the Peace, and, where it shall exceed that sum by action of debt or information in any Court of Record, and in such action of debt the clerk shall endorse on the writ, that bail is to be required, whereupon the sheriff shall take sufficient bail for the appearance of the defendant, or be answerable himself, as in other like cases, and the court may either rule the defendant to give special bail, or admit an appearance without as to them shall appear just. This act shall be particularly given in charge to all grand juries, and it shall be made a part of their oath, specially, that they will present all offences against the same coming to their knowledge, which presentments shall be tried in a summary way, by a jury to be impannelled and charged, unless the court, for very good cause to them shewn, shall continue the same.

CHAP. XC.

A BILL constituting the High Court of Chancery.

SECTION I. BE it enacted by the General Assembly, that the Court of Equity, called the High Court of Chancery, consisting of the present three Judges thereof, or their successors, to be appointed, when vacancies happen, in manner herein after directed, of whom any two are declared to be a sufficient number to constitute a court, shall be a Court of Record, and have jurisdiction over all persons, and in all causes now depending, and hereafter to be brought, before them, by subpœna in Chancery, and bill in equity, originally commenced in that court, or removed thither by writs of certiorari, where the matter in controversy shall be equal in value to ten pounds, of current money, or two thousand pounds of tobacco, or, of less value, if the Justices of a county, city, or borough or the vestry of a parish be parties, by appeal from the decrees of the court of any county, city, or borough, in Chancery, by habeas corpus, and by any other lawful ways or means. The said court shall also take cognizance of suits for alimony and legacies, and all such other matters as the High Court of Chancery in England, by custom, exerciseth jurisdiction in. Every future Judge of the said court shall be chosen out of the Judges of the General Court, or the Court of Admiralty, or such counsel, if such there be, as shall have attended at the bar of this court, or of the General Court, for seven years, and shall be appointed by commission of the Governor, and, before he enter upon the duties of his office, shall give assurance of fidelity to the commonwealth, and also take the oath of office, following: "You shall swear, that well and truly you will serve this commonwealth, in the office of Judge of the High Court of Chancery; and that you will do equal right to all manner of people, great and small, high and low, rich and poor, according to equity and good conscience, and the laws and usages of Virginia, without respect of persons. You shall not take, by yourself, or by another, any gift, fee, or reward of gold, silver or any other thing, directly or indirectly, of any person or persons, great or small, for any matter done, or to be done, by virtue of your office, except such fees or salary as shall be by law appointed. You shall not maintain, by yourself, or by any other privily or openly, any plea or quarrel depending in the courts of this commonwealth. You shall not delay any person of right for the letters or request of any person, nor for any other cause, and if any letter or request come to you contrary to law, you shall nothing do for such letter or request; but you shall proceed to do the law, any such letter or request notwithstanding. And finally, in all things belonging to your said office, during your continuance therein, you shall faithfully, justly, and truly, according to the best of your skill and judgment, do equal and impartial justice, without fraud, favour, affection, or partiality. So help you God." Which oath shall be administered in open court, if it be sitting, or, if not, by one of the other Judges who shall give a certificate thereof: And the taking of the said oath, in the former case, or such certificate, in the other, shall be recorded in the said court. And any Judge presuming to execute his office, before he shall have given such assurance of fidelity, and taken the said oath, shall forfeit and pay five hundred pounds, of current money, to the use of the commonwealth. The Judges of the said court shall hold their offices so long as they respectively demean themselves well therein, and shall take precedence in court, according to the order in time of their elections, or nominations in the ballot. This court shall appoint a clerk, when and so often as that office shall become vacant, who shall continue in office so long as he shall demean himself well therein. They shall also appoint a serjeant at arms, who shall continue in office during their pleasure. Any two Judges of the court may appoint a clerk in the room of him who shall die in vacation, to continue in office until the succeeding term. The clerk may appoint an assistant clerk with the approbation of the court, and not otherwise, to continue in office during the pleasure of his principal. The sheriff of that county in which the court shall sit, and his undersheriffs, or such and so many of them as the court shall direct, shall attend, and obey, this court, as the officers thereof. This court shall sit two terms, in every year at the capitol, in Williamsburg, or at or in such other house or place as the General Assembly shall hereafter appoint; or, if the place appointed, or to be appointed, be destroyed, or be in the power of, or in danger of invasion by, a public enemy, or infected with a contagious or pestilential disease, in a recess of the General Assembly, at such place as the Governor, with advice of the Council, by writ of adjournment which he is hereby empowered to issue, shall direct, until further provision be made by law. The terms shall begin on the fifth day of April and September, or, if that be Sunday, then on the next day, and shall be continued eight days, Sunday excluded, each. Before every term, the clerk shall make out a list of all causes depending in court, which are ready for hearing that term, distributing them, in convenient numbers, amongst the days thereof: and shall deliver subpœnas, for summoning witnesses, to any parties who desire them. The said court may be adjourned by one Judge, before the coming of another, for the same number of days, and all matters depending in it, when the court shall not sit in any term, or shall not continue to sit the whole term, shall stand continued to the next term, in the same manner as the General Court may be adjourned by one or two of the Judges thereof, and as matters depending in that court shall stand continued. A Judge of this court, accused of corruption, oppression, or other maladministration, may be impeached thereof by the House of Delegates before the Court of Appeals, and the impeachment shall be prosecuted, and the delinquent punished, in the like manner as in the case of a Judge of the General Court so impeached, if found guilty.

CHAP. XCI.

A BILL conſtituting the General Court.

SECTION I. BE it enacted by the General Aſſembly, that the court of common law, called the General Court, conſiſting of the preſent Chief Juſtice, and the four other Judges thereof, or their ſucceſſors, to be appointed, when vacancies happen, in the manner herein after directed, of whom any three or four are declared to be a ſufficient number to conſtitute the court, ſhall have juriſdiction over all perſons, and of all treaſons, felonies, miſdemeanors, and other pleas of the commonwealth, except proſecutions for offences againſt ſtatutes, inflicting leſs penalties than twenty ſhillings, or two hundred pounds of tobacco, and in all actions and ſuits, and other matters, at common law, now depending, and hereafter to be brought before them, by original proceſs, or certiorari, where the things demanded, or damages pretended to have been ſuſtained, in any caſe, ſhall be equal in value to ten pounds, of current money, or two thouſand pounds of tobacco, or of leſs value if the Juſtices of a county, city, or borough, or the veſtry of a pariſh be parties; and by appeals from the judgments, orders, and ſentences of the court of a county, city, or borough; and by writs of error, habeas corpus, ſuperſedeas, prohibition, and mandamus; and by any other lawful ways or means. The court, in caſes of appeals relating to probates of wills and teſtaments, eſtabliſhment or obſtruction of ways, and erection of water mills, may examine witneſſes, both ſuch as gave teſtimony in the court below, and others; but in other caſes ſhall proceed in the ſame manner, as if the caſes were removed by writs of error. Every future Judge of the ſaid court ſhall be choſen out of the Judges of the Court of Admiralty, or ſuch counſel, if ſuch there be, as ſhall have attended at the bar of this court, or the High Court of Chancery, for ſeven years, and ſhall be appointed by commiſſion of the Governor; and, before he enter upon the duties of his office, ſhall give aſſurance of fidelity to the commonwealth, and alſo take the oath of office following: "You ſhall ſwear, that well and truly you will ſerve this commonwealth in the office of a Judge of the General Court; and that you will do equal right to all manner of people, great and ſmall, high and low, rich and poor, according to law, without reſpect of perſons; you ſhall not take, by yourſelf, or by any other, privily or openly, any gift, fee, or reward, of gold, ſilver, or any other thing directly or indirectly, of any perſon or perſons, great or ſmall, for any matter done, or to be done, by virtue of your office, except ſuch fees or ſalary as ſhall be by law appointed. You ſhall not maintain, by yourſelf, or any other, privily or openly, any plea or quarrel depending in the courts of this commonwealth. You ſhall not deny or delay any perſon of common right, for the letters or requeſt of any perſon, nor for any other cauſe; and if any letter or requeſt come to you, contrary to the law, you ſhall nothing do for ſuch letter or requeſt; but you ſhall proceed to do the law, any ſuch letter or requeſt notwithſtanding. And, further, in all things belonging to your ſaid office, during your continuance therein, you ſhall faithfully, juſtly, and truly, according to the beſt of your ſkill and judgment, do equal and impartial juſtice, without fraud, favour, affection, or partiality. So help you God." Which oath ſhall be adminiſtered in open court, if it be ſitting, or, if not, by one of the other Judges, who ſhall give a certificate thereof; and the taking of the ſaid oath in the former caſe, or ſuch certificate in the other, ſhall be recorded in the ſaid court; and any Judge preſuming to execute his office, before he ſhall have given ſuch aſſurance of fidelity, and taken the ſaid oath, ſhall forfeit and pay five hundred pounds, of current money, to the uſe of the commonwealth. The Judges of this court ſhall hold their offices ſo long as they, reſpectively demean themſelves well therein, and ſhall take precedence in court, according to the order in time of their elections, or nominations in the ballot. The ſaid court ſhall appoint a clerk, when and ſo often as that office ſhall become vacant, who ſhall continue in office ſo long as he ſhall demean himſelf well therein. They ſhall alſo appoint a tipſtaff and crier, who ſhall continue in office during their pleaſure. Any three Judges of the court may appoint a clerk, in the room of him who ſhall die in vacation, to continue in office until the ſucceeding term. The clerk may appoint an aſſiſtant clerk, with the approbation of the court, and not otherwiſe, to continue in office during the pleaſure of his principal. The ſheriff of that county in which the court ſhall ſit, and his under ſheriffs, or ſuch and ſo many of them as the court ſhall direct, ſhall attend and obey the ſaid court, as the officers thereof. This court ſhall ſit four terms, in every year, at the capitol, in Williamſburg, or at or in ſuch other houſe or place as the General Aſſembly ſhall hereafter appoint, or, if the place appointed, or to be appointed, be deſtroyed, be in the power of, or in danger of invaſion by, a public enemy, or be infected with any contagious or peſtilential diſeaſe, in a receſs of the General Aſſembly, at ſuch place as the Governor, with advice of the Council, by writ of adjournment, which he is hereby empowered to iſſue, ſhall direct, until further proviſion be made by law. The terms ſhall begin on the firſt day of March, June, Auguſt, and December, or if that be Sunday, then the next day, and ſhall continue, the firſt and third, twenty four natural days, Sundays excluded, each, and the two others, in which treaſons, felonies, miſdemeanors, and other pleas of the commonwealth only ſhall be heard and determined, until all the buſineſs of thoſe kinds, except ſuch as muſt be neceſſarily adjourned, ſhall be finiſhed. Before every March and October term, the clerk ſhall enter, in a particular book, all cauſes and other matters which ſhall be ready for trial and argument in that term, and wherein there ſhall have been interlocutory judgments, with the names of the parties, placing thoſe firſt which were firſt brought to that ſtage of their progreſs, and diſtributing them in convenient numbers amongſt the days of the term, except pleas of the commonwealth, in caſes of treaſon and felony, which ſhall ſtand to the firſt day. One or two of the Judges, if no more attend the firſt day of any term, ſhall adjourn the matters depending before the court from day to day, until a ſufficient number ſhall come, if that happen before the hour of four of the clock, in the afternoon, of the ſixth day. If the court ſhall not ſit in any term, or ſhall not continue to ſit the whole term, or, before the end of a term, ſhall not have heard and determined all matters ready for their deciſion, ſuch matters and all others depending in court ſhall ſtand continued, pleas of the commonwealth to any term which ſhall be next following, and the reſt to the March or October term which ſhall be next following.

CHAP. XCII.

A BILL conſtituting the Court of Admiralty.

SECTION I. BE it enacted by the General Aſſembly, that the Court of Admiralty, to conſiſt of three Judges, any two of whom are declared to be a ſufficient number to conſtitute a court, ſhall have juriſdiction in all maritime cauſes, except thoſe wherein any parties may be accuſed of capital offences, now depending and hereafter to be brought before them, ſhall take precedence in court according to the order in time of their appointments, and ſhall be governed in their proceedings and deciſions by the regulations of the Congreſs of the United States of America, by the acts of General Aſſembly, by the laws of Oleron, and the Rhodian and Imperial laws, ſo far as they have been heretofore obſerved in the Engliſh Courts of Admiralty, and by the laws of nature and nations. If the regula-

tions of Congreſs happen to differ from thoſe of General Aſſembly, the latter are declared to be ſupreme in caſes wherein citizens only are litigants, and the former in all other caſes. Every future Judge of this court ſhall be choſen out of ſuch counſel, if ſuch there be, as ſhall have attended at the bar of the High Court of Chancery, or General Court, for ſeven years, and ſhall be appointed by commiſſion of the Governor, and, at the time he ſhall give aſſurance of fidelity to the commonwealth, ſhall take the oath of office, following: "You ſhall ſwear, that well and truly you will ſerve this commonwealth, in the office of a Judge of the Court of Admiralty; that you will do equal right to all manner of people, great and ſmall, high and low, rich and poor, of what country or nation ſoever they be, without reſpect of perſons. You ſhall not take, by yourſelf, or by any other, any gift, fee, or reward of gold, ſilver or any other thing, directly or indirectly, of any perſon or perſons, great or ſmall, for any matter done, or to be done, by virtue of your office, except ſuch fees or ſalary as ſhall be by law appointed: You ſhall not maintain, by yourſelf, or by any other, privily or openly, any plea or quarrel depending in the ſaid court. You ſhall not delay any perſon of right for the letters or requeſt of any one, nor for any other cauſe, and if any letter or requeſt come to you contrary to the law, you ſhall nothing do for ſuch letter or requeſt, but you ſhall proceed to do the law, any ſuch letter or requeſt notwithſtanding. And finally, in all things belonging to your ſaid office, during your continuance therein, you ſhall faithfully, juſtly, and truly, according to the beſt of your ſkill and judgment, do equal and impartial juſtice, without fraud, favour, affection, or partiality." The taking of which oath, or the certificate thereof, ſhall be regiſtered in the ſaid court. Any judge executing his office, before he ſhall have taken the ſaid oath, or given aſſurance of fidelity to the commonwealth, ſhall forfeit five hundred pounds, of current money, to the uſe of the commonwealth. This court, or any two judges thereof, when it is not ſitting, ſhall appoint a Regiſter, an Advocate and a Marſhall when thoſe offices ſhall become vacant, who ſhall take the oath of office, and of whom the Regiſter and Marſhall ſhall moreover give bonds, the former in one thouſand pounds, and the other in ten thouſand pounds, payable to the Governor, or his ſucceſſors, with ſureties to be approved by the court, or two Judges, with conditions that they will faithfully and impartially perform their reſpective offices, and account for and pay all money which may come to their hands by virtue thereof: Upon which bonds ſuits may be ſeverally brought for the benefit, and at the coſts, of any perſons grieved by breach of the conditions, until the damages to be recovered ſhall be equal to the penalties. The Judges, Regiſter, Advocate and Marſhall, ſhall continue in office ſo long as they reſpectively demean themſelves well therein. The court ſhall ſit, ſo often as there ſhall be occaſion, at the capitol, in Williamſburg, until the General Aſſembly ſhall appoint another place, or at or in ſuch houſe or place as the the Governor, with advice of the Council, ſhall, by writ of adjournment direct, in caſe an accident by fire or tempeſt, or a peſtilential diſeaſe, or an enemy ſhall make it neceſſary. This court ſhall have power to order ſale of periſhable goods to be made at any time, taking ſufficient caution for ſecuring the proceeds of the ſale to him who ſhall be intitled to them by the final ſentence. Every commander of a ſhip of war, or other veſſel, belonging to the commonwealth, or to any citizen thereof, when he ſhall be required, ſhall aſſiſt the Marſhall of the ſaid court, acting by virtue of the proceſs thereof, to ſeize and ſecure any veſſel or goods, ſubject to ſuch proceſs, ſo as not to violate the right of any other of the United States, or of any ſtate or prince in amity with them. When a citation ſhall have been ſerved upon the owner or maſter of a veſſel therein mentioned, if no perſon appear at the return-day, or at ſuch further time as the court, for peculiar reaſons, ſhall appoint, and enter into the litigation, the libel ſhall be taken for confeſſed. And if return be made that the maſter or owner was not found, and no perſon appear and claim, the court ſhall make an order, to be publiſhed three times in the Virginia Gazette, that the libel be taken for confeſſed, unleſs the party intereſted ſhall appear and ſhew cauſe to the contrary, at a certain day, to be limited in the order, not being leſs than three, nor more than ſix, weeks, after the making thereof; and, the ſaid order being ſo publiſhed, if there be no ſuch appearance, before expiration of the time limited, the libel ſhall be taken for confeſſed accordingly, caution being given to ſecure the effects, ſo that they may be ſubject to the future order of the court, and the ſentence given thereupon ſhall be publiſhed in manner aforeſaid: And if the maſter, owner, or other perſon intereſted, at any time, within one year after ſuch laſt mentioned publication, or, that being omitted, within ſeven years after ſentence, by petition deſire that the cauſe be reheard, and give ſecurity for payment of ſuch coſts as may be awarded againſt him, the court ſhall admit ſuch party to make his defence or claim in the ſame manner as if he had appeared at the return of the citation, and may give ſuch ſentence as they ſhall think juſt, and agreeable with the laws preſcribed for the rules of their deciſions. Commiſſions for taking the examinations of witneſſes may be awarded, and ſuch examinations may be read in the like caſes as they may be in an action of common law. In a caſe where both parties are citizens of the commonwealth, every matter of fact affirmed by the one and denied by the other ſhall be ſtated as a formal iſſue, and tried before the ſame court by a jury, in like manner as ſuch iſſue ought to be tried in an action at common law. The court may at any time after, but not before an interlocutory ſentence, if they ſee good cauſe, require a perſon pretending a claim to any veſſel or goods mentioned in the libel, to give ſecurity for the coſts which may be occaſioned by diſcuſſion of the claim, and may refuſe to admit him until ſuch ſecurity be given, and may award any party to pay coſts when they judge it reaſonable, unleſs he be the maſter, or owner, appearing and making a defence or a claim at the return of a citation; and the like execution for ſuch coſts may iſſue, and there ſhall be like proceedings thereupon as for coſts recovered by judgments in an action at common law, otherwiſe than that the execution ſhall bear teſte the day of examination, and may be made returnable to any day not leſs than one month thereafter. In caſe of a capture from an enemy, if there be a condemnation, and neither of the United States in general, nor the commonwealth in particular, be intereſted therein, the court ſhall order the ſales to be made, and accounts thereof to be returned, by the libellant, or his agent, if it be his deſire. A party thinking himſelf aggreived may appeal from the final ſentence of the court, in caſe of a capture from an enemy with whom the United States of America are at war, to ſuch court, and in ſuch manner, as is or ſhall be appointed by Congreſs, and in any other caſe to the Court of Appeals, giving bond, with ſurety, in the latter, to proſecute the appeal, and perform the ſentence, if it be affirmed.

CHAP. XCIII.

A BILL conſtituting the Court of Appeals.

SECTION I. BE it enacted by the General Aſſembly, that a Court of Appeals, for hearing and determining ſuits which ought to be inſtituted there, and for finally deciding thoſe which are herein after referred to that tribunal, ſhall be holden twice in every year, namely, on the twenty ninth, or, when that ſhall happen to be Sunday, on the thirtieth, day of March and Auguſt, and ſhall ſit, in the whole, ſix juridical days, ſucceſſively, each time, unleſs the buſineſs depending before them be ſooner diſpatched, at the capitol, in Williamſburg, or at ſuch other place as ſhall be appointed by the General Aſſembly, or, in their recеſs, by the Governor, with advice of the Privy Council, in any ſuch emergency as will make the adjournment of any other court, by his writ lawful. The Judges of the High Court of Chancery, General Court, and Court of Admiralty, ſhall be Judges of the Court of Appeals, of whom the firſt ſhall take precedence, and the ſecond be next, in rank and of them ſhall be a ſufficient num-

ber to conſtitute the court. Every Judge, before he exerciſe this office, ſhall, in that court, openly give aſſurance of fidelity to the commonwealth, and take this oath: "You ſhall ſwear, that you will well and truly ſerve this commonwealth in the office of a Judge of the Court of Appeals; and that you will do equal right to all manner of people, great and ſmall, high and low, rich and poor, without reſpect of perſons. You ſhall not take, by yourſelf, or by any other, any gift, fee, or reward, of gold, ſilver, or any other thing, directly or indirectly, of any perſon or perſons, great or ſmall, for any matter done or to be done, by virtue of your office, except ſuch fees or ſalary, as ſhall be by law appointed. You ſhall not maintain, by yourſelf, or any other, privily or openly, any plea or quarrel, depending in the courts of this commonwealth. You ſhall not delay any perſon of right for the letters or requeſt of any perſon, nor for any other cauſe; and if any letter or requeſt come to you, contrary to the law, you ſhall nothing do for ſuch letter or requeſt; but you ſhall proceed to do the law, any ſuch letter or requeſt notwithſtanding. And, finally, in all things belonging to your ſaid office, during your continuance therein, you ſhall faithfully, juſtly, and truly, according to the beſt of your ſkill and judgment, do equal and impartial juſtice, without fraud, favour, or affection." This court ſhall have juriſdiction, not only in ſuits originating there, and adjourned thither for trials by virtue of any ſtatute, which trials ſhall be by juries, according to the courſe of law; but alſo in ſuch as ſhall be brought before them by appeals and writs of error, to reverſe decrees of the High Court of Chancery, judgments of the General Court, and ſentences of the Court of Admiralty, after thoſe deciſions ſhall be final there, if the matter in controverſy be equal in value, excluſive of coſts, to fifty pounds, or be a freehold, or franchiſe; and alſo in ſuch caſes as ſhall be removed before them by adjournment from the other courts before mentioned, when queſtions in their opinion, new and difficult occur; and moreover in ſuch, wherein appeals to reverſe decrees and judgments of the former General Court, and ſentences of the Court of Vice-Admiralty, as had not been determined, the one by the King of Great-Britain, in his Privy-Council, the other by the High Court of Admiralty of Great-Britain, before the fifteenth day of April, one thouſand ſeven hundred and ſeventy ſix. The court ſhall appoint a clerk, tipſtaff, and crier, the firſt removable for miſbehaviour, the two others at pleaſure, and ſhall be attended by the ſheriff of the county in which they ſit, as their officer. The party deſiring to proſecute ſuch appeal, or writ of error, ſhall proceed in like manner, and ſhall be liable to like damages, if the decree, judgment, or ſentence, be affirmed, and the ſaid clerk ſhall iſſue the like proceſs, for ſummoning the adverſe party, removing the records, ſuſpending execution, and for every other requiſite purpoſe, making thoſe alterations in the form which are neceſſary to adapt it to the caſe, as are preſcribed and aſcertained in caſe of an appeal or writ of error to reverſe the decree, ſentence, or judgment, of a county, city, or borough court, and ſuch proſecution ſhall be commenced within the time limited in the caſe laſt mentioned, unleſs it be ſuch appeal to the ſaid King, or High Court of Admiralty, in which inſtance the proſecution ſhall be commenced within twelve months after the firſt ſeſſion of the ſaid Court of Appeals ſhall be ended. The ſaid clerk ſhall carefully preſerve the tranſcripts of records certified to his court, with the bonds for proſecution and all papers relative to them, and other ſuits depending therein, docketing them in the order he ſhall receive them, that they may be heard in the ſame courſe, unleſs the court, for good cauſe to them ſhewn, direct any to be heard out of its turn; and ſhall faithfully record their proceedings and deciſions, and certify ſuch as ſhall be given upon appeals, writs of error, and matters removed by adjournment to the proper courts. A clear and conciſe ſtate of the caſe of each party in ſuch appeal, writ of error, or controverſy adjourned by reaſon of novelty and difficulty, with the points intended to be inſiſted upon, ſigned by his counſel, and printed, the expence whereof ſhall be taxed in the bill of coſts, ſhall be delivered to every Judge time enough before the hearing, for his conſideration; but the court, if this be neglected, may, nevertheleſs, hear and determine the matter, and may take into their conſideration any thing apparent in the manuſcript record, although it be omitted in ſuch printed caſe; and may give ſuch decree, judgment, or ſentence, if it be not affirmed or reverſed in the whole, as the court, whoſe error is ſought to be corrected, ought to have given, affirming in thoſe caſes where the voices on both ſides ſhall be equal, with an allowance of the coſts of appeal to the party prevailing, to be certified, as well as their opinion upon any adjourned queſtion to the court, from which the matter was removed, who ſhall enter it as their own, and award execution thereupon accordingly.

CHAP. XCIV.

A BILL for conſtituting Courts Martial.

SECTION I. BE it enacted by the General Aſſembly, that it ſhall be lawful for the Governor, with advice of the Council of State, by commiſſion, to be directed to three or more able and ſufficient perſons to conſtitute, from time to time, ſo often as occaſion may require, a Court Martial, to which it ſhall pertain to have cognizance of things touching war out of the commonwealth, and alſo of things that touch war within the commonwealth, which cannot be determined nor diſcuſſed by the common law. Which court ſhall be holden at ſuch time and place as the ſaid commiſſion ſhall direct, and ſhall be governed, in their proceedings and ſentences, according to the laws and uſages of war, of nature, and nations; and ſhall have power to adjourn, from time to time, till they ſhall have heard and determined the offence ſpecified in their commiſſion.

SECT. II. A Mat ſhall alſo to execute the orders and ſentences of the ſaid court, and a clerk to make a minute of their proceedings, ſhall be appointed by the Governor, to whom the ſaid proceedings ſhall be returned to be ſafely kept in the office of the Council of State.

SECT. III. NEVERTHELESS the Governor, with advice of the Council, ſhall have power to ſuſpend, from time to time, the execution of the ſentence of the ſaid court, or finally to annul the ſame in their diſcretion.

CHAP. XCV.

A BILL conſtituting Juſtices of the Peace and County Courts.

SECTION I. BE it enacted by the General Aſſembly, that the Aldermen to be elected for every county, who by that election ſhall ſtand nominated to be Juſtices for the ſaid county, if they were not ſuch before, ſhall on the firſt Monday in after their election, if fair, if not, on the next fair day, Sunday excluded, laying aſide all excuſes, other than grievous ſickneſs, convene at the court-houſe of the county, and there with open doors, between the hours of twelve and three of the clock in the day, nominate to be Juſtices for the ſaid county, ſo many of the moſt honeſt, knowing, and diſcreet men dwelling therein, and neither of them being ſheriff, clerk of the peace, owner of a tavern in the

ſame county, or keeper of a tavern, as, together with themſelves, and thoſe already inveſted with, and continuing in the ſaid office, will make up the number ſeven, and ſo many more as will raiſe that number, if it be not equal to one for every fifty militia in their county, and ſhall deliver the ſaid nomination, certified under their hands and ſeals, to the ſheriff of their county, who ſhall attend for that purpoſe; and, within fifteen days thereafter, the ſaid ſheriff ſhall carry it to the Governor, under the penalty of one hundred pounds. The Governor, with advice of the Council, ſhall, immediately thereupon, make out and deliver, to the ſheriff, a commiſſion, to be directed to ſuch of the ſaid Aldermen as were not before Juſtices, and to the perſons deſigned by the ſaid nomination, conſtituting the ſaid commiſſioners Juſtices of the Peace for the ſame county, in addition to thoſe before officiating; and the ſaid ſheriff ſhall, under the like penalty, deliver the ſaid commiſſion to the clerk of the peace, on or before the court-day next after his return to the ſaid county, a reaſonable time being allowed for ſuch return. If any perſon named in the ſaid commiſſion ſhall fail before the next nomination of Juſtices, to qualify himſelf for executing his office, by giving the aſſurance and taking the oaths, herein after preſcribed, unleſs he be employed in the ſervice of the public, out of the county, his appointment ſhall thereupon become abſolutely void. And if any perſon inveſted with the ſaid office, ſhall remove out of the county to dwell, or ſhall forbear to ſit in court, during the ſpace of ſix months, unleſs ſuch non-performance of that duty be juſtifiable by reaſon of the like avocation as aforeſaid, or ſhall perſonally declare, or by writing under his hand, proved by a credible witneſs, ſignify, to the ſaid Aldermen, at their anniverſary meeting, that he will not act any longer in the ſaid office, he ſhall thereupon ſtand diveſted thereof. The ſaid Juſtices ſhall have the powers of conſervators of the peace and authority, moreover, jointly or ſeverally, to take of all thoſe who be not of good fame, ſufficient ſurety for their good behaviour, to the intent that the peace be not broken; and ſhall certify and return all recognizances by them taken to their next county court, to be continued or diſcharged as the court ſhall ſee cauſe: but no ſuch recognizance ſhall be binding longer than twelve months after the taking thereof. Any one Juſtice ſhall have power to take cognizance, either on his own view, or on information of the breach of a penal law, if the penalty exceed not twenty five ſhillings, or two hundred pounds of tobacco, and alſo to hear and determine any plaint in debt or detinue, or upon trover and converſion if the value of the thing alledged to be detained, or the damage alledged to have been ſuſtained be not more than twenty five ſhillings, or two hundred pounds of tobacco, proceeding in a ſummary way, without a jury, after the defendant, by warrant of ſuch Juſtice, or ſome other, directed to the conſtable, ſhall have been ſummoned to appear, and anſwer the information or plaint, and the ſaid Juſtice, if he ſhall give judgment againſt the defendant, ſhall award a writ of fieri facias to make the penalty, debt, or damages, or of diſtringas, to compel delivery of the thing recovered, with coſts, to be directed to the conſtable, who ſhall proceed in the ſame manner as a ſheriff ought to proceed in, when the like writ is directed to him. A court in every county, to be conſtituted of the Juſtices for ſuch county, or any four or more of them, and to be called the county court, ſhall hold their ſeſſions, monthly, at the time and place when and where the court of ſuch county, before the commencement of this act, might lawfully ſit. Such county court ſhall be a court of record, and a court both of common law and of chancery, and ſhall hold plea of actions, real, perſonal, and mixt, if the cauſes of ſuch actions ariſe within their county, or if the actions be ſuch as are called tranſitory, and where the value of the thing, claimed in any perſonal action, ſhall exceed twenty-five ſhillings, or two hundred pounds of tobacco, and ſhall hear and determine pleas of the commonwealth ariſing, or proſecutions, for crimes and miſdemeanors, committed within their county, other than treaſons and felonies; and ſhall hear and determine caſes of equity in chancery, when the officer of their own county ſhall have ſerved the defendants with the ſubpœnas to anſwer, unleſs the original cauſe of action be of ſuch a local nature that, if it were the ſubject of a common law ſuit, it muſt have been tried in the court of ſuch other county, or in the General Court. Where a bay, river, or other water courſe divideth two counties, the court and every Juſtice of the Peace, and officers, of either ſhall have the ſame juriſdiction and power upon the water, from the ſhore of their own county to the oppoſite ſhore, as if the whole water were within the body of a county. Every perſon appointed a Juſtice of the Peace, before he ſhall execute the office, ſhall give aſſurance of his fidelity to the commonwealth, and, in the court of his county, take this oath: "You ſhall ſwear that, in the office of Juſtice of the Peace, in and for the county of you ſhall do equal right to the poor, and to the rich, after your cunning, wit, and power, and after the laws and ſtatutes of the commonwealth. You ſhall not be of counſel in any quarrel hanging before you. You ſhall hold your ſeſſions after the form of the ſtatute thereof made. Fines and amercements, that ſhall happen to be made, and forfeitures which ſhall fall before you, you ſhall cauſe to be entered, without any concealment, and thereof true accounts to be ſent to the public Treaſurer. You ſhall not ſet, for gift, or other cauſe, but well and truly you ſhall do your office of Juſtice of the Peace, in that behalf. You ſhall take nothing for your office of Juſtice of the Peace to be done, but of the commonwealth. You ſhall not direct, nor cauſe to be directed, any precepts by you to be made, to the parties; but you ſhall direct them to the ſheriff of the ſaid county, or other the officers or miniſters of the commonwealth, or other indifferent perſons, to do execution thereof. So help you God." And alſo this other oath. "You ſhall ſwear, that well and truly you will ſerve the commonwealth, and the citizens thereof, in the office of a Juſtice of the county court of in Chancery, and that you will do right to all manner of people, great and ſmall, high and low, rich and poor, according to equity and good conſcience, and the laws and uſages of the commonwealth, without favour, affection, or partiality. So help you God." And whoſoever ſhall execute the office of a Juſtice of the Peace, before he ſhall have given ſuch aſſurance of his fidelity, and taken ſuch oaths as aforeſaid, ſhall forfeit and pay three hundred pounds; one half thereof to the uſe of the commonwealth, and the other half to him who will ſue for the ſame. Any Juſtice of the Peace, accuſed of corruption, oppreſſion, or other mal-adminiſtration, may be thereof impeached before the Court of Appeals, by order of the Houſe of Delegates, or upon a preſentment of the grand jury of his county; and if he be found guilty, may, by ſentence of the ſaid court, be removed from his office a certain time, or be perpetually diſabled to hold that, or any other office, in the commonwealth. All matters depending before a county court, if the Juſtices thereof fail to meet on the day to which they ſhall adjourn, either in the ſame ſeſſion, which they may adjourn from day to day, or in the next month, ſhall ſtand continued to the ſucceeding ſeſſion, and that although between the two ſeſſions more months than one intervene, and returns of proceſs ſhall be made to, and parties and others, bound and ſummoned, ſhall appear at, ſuch ſucceeding ſeſſion, in like manner, and under like penalties for any defaults, as if the month in which it ſhall be held had been next, in order of time. Proceſs ſhall not be diſcontinued, if by any accident there ſhall not at any time be a ſufficient number of Juſtices to conſtitute a court. The clerk of every county court ſhall reſide in ſuch county during his continuance in office, or, if he do not the office ſhall become vacant.

CHAP. XCVI.

A BILL *concerning Sheriffs.*

SECTION I. BE it enacted by the General Aſſembly, that each county court ſhall, annually, in the months of July, or Auguſt, recommend three perſons, named in the commiſſion of the peace, one of whom ſhall be commiſſioned by the Governor, or Commander in Chief, with advice of the Council, on the twenty fourth, or twenty fifth, day of

October following, to execute the office of Sheriff of ſuch county, for the enſuing year: And if any ſheriff ſo appointed, ſhall die within the year, the Governor ſhall and may appoint one of the others recommended, to act as ſheriff, in his room: And if any county court ſhall neglect to recommend perſons for the office of ſheriff, or if all the perſons recommended die within the year, the Governor, or Commander in Chief, with advice of the Council, ſhall appoint and conſtitute any one of the Juſtices, named in the commiſſion of the peace, to be ſheriff, and fill up the vacancy, in like manner, in caſe of his death, within the year. Every perſon, ſo appointed ſheriff, and refuſing to accept and execute the office, ſhall forfeit twenty pounds, to the uſe of the county towards leſſening the levy; for which penalty judgment may be entered by the court, on the refuſal of the perſon to accept being made in court, otherwiſe the ſame may be recovered by information exhibited againſt the perſon refuſing, and on his conviction, as in other caſes: But if the perſon refuſing ſhall make oath in court, "That he hath uſed his beſt endeavours, truly and bona fide, without covin or collution, to get ſecurity for performing of the ſaid office, and cannot obtain ſuch ſecurity," he ſhall thereupon be exempted from the penalty, and a new commiſſion ſhall be iſſued, as in caſe of a vacancy by death. No perſon, who hath once ſerved as ſheriff, or paid his fine, for refuſal, ſhall be liable to the forfeiture aforeſaid, until every Juſtice in the commiſſion of the peace, ſhall have actually ſerved as ſheriff, paid his fine, or diſcharged himſelf by oath, as aforeſaid; and no member of the General Aſſembly, during the time of his being ſuch, ſhall be finable for not accepting the office of ſheriff. Every perſon accepting a ſheriff's commiſſion ſhall, in his county court, enter into two bonds, with good and ſufficient ſureties, one in the penalty of one thouſand pounds, with the following condition: to wit: "The condition of the above obligation is ſuch, that, if the above bound A. B. as ſheriff of the county of ſhall, by himſelf, or his deputies, well and truly collect all officers fees and dues, put into his or their hands to collect, and account for, and pay the ſame, at ſuch time, and in ſuch manner, as is directed by law; ſhall alſo well and truly execute, and due return make of, all proceſs and precepts, to him directed, and to him or them delivered, and pay and ſatisfy all ſums of money or tobacco, by him or them received, or which or ought to have been received, upon any ſuch proceſs or precept, to the perſon or perſons intitled thereto; and in all other things ſhall truly and faithfully execute and perform the ſaid office of ſheriff, according to law, during the time of his continuance therein; then the above obligation to be void, otherwiſe to remain in full force." Which bond ſhall be payable to the Governor, for the time being, and his ſucceſſors, and, in his name, or that of his ſucceſſor, any perſon injured by a breach of the condition, may, at his coſts, proſecute a ſuit thereon, and recover damages, and be liable to pay coſts to the defendant, if a verdict or judgment paſs in his favour, or the ſuit be diſcontinued: And ſuch bond ſhall not become void upon the firſt recovery, or diſmiſſion of a firſt or other ſuit, but may be put in ſuit, from time to time, by, and at the coſts of any other perſon injured, until the whole penalty be recovered in ſuch damages. The other bond ſhall alſo be payable to the Governor, and his ſucceſſors, in ſuch penalty as the court ſhall direct, at leaſt double the amount of the taxes, to be levied in ſuch county, for that year, and with the following condition, to wit: "The condition of the above obligation is ſuch, that, if the above bound ſheriff of the county of ſhall, by himſelf, or deputies, well and truly collect all taxes and duties directed by law to be collected in the ſaid county, during the time of his continuance in office, alſo all fines, amercements, and penalties, which he ſhall be authoriſed to collect and account for, and pay the ſame to the public Treaſurer, and other perſons intitled thereto, at ſuch time, and in ſuch manner, as is directed by law; then the above obligation to be void, otherwiſe to remain in full force." For breach of the condition of which bond, at the inſtance, and coſts, and for the benefit of any perſon injured thereby, a ſuit may be commenced and proſecuted, in the ſame manner, and ſubject to the ſame regulations, as the action upon the firſt mentioned bond; or the public Treaſurer, or any other public or county creditor, upon the ſecond bond, or any officer, upon the other bond, may, by motion to the General Court, or county court, againſt the obligors, giving them ten days notice of ſuch motion, recover judgment for all money and tobacco collected by ſuch ſheriff, or his deputies, and not accounted for to the perſon or perſons reſpectively intitled to receive them. Every perſon, before he enters upon his office of ſheriff, or under ſheriff, ſhall in open court, give aſſurance of fidelity to the commonwealth, in the form preſcribed by law, and alſo take the following oath of office, to wit: "I A. B. do ſwear, that I will do right, as well to poor as rich, in all things belonging to my office of ſheriff; that I will do no wrong to any man, for any gift, reward, or promiſe, nor for favour, or hatred; that I will make due panels of perſons able and ſufficient, and not ſuſpected, or procured; and that in all other things, I will faithfully and impartially execute the duties of my ſaid office, according to the beſt of my ſkill and power. So help me God." A court ſhall have power, from time to time, to ordain rules for the government, ſuſtentation, and cure of priſoners, and at any time, to remove the jailor, for negligence, or malice, towards them; and the public jailor, whenever that office ſhall become vacant, ſhall be apointed by the General Court; but the perſon, ſo to be appointed, as well as he who is now in office, ſhall, nevertheleſs, have the cuſtody of priſoners committed to the public jail, by any proceſs, order, or decree of the High Court of Chancery, and ſhall be ſubject to the directions of that court, with regard to thoſe priſoners. No ſheriff ſhall return, upon any writ to him directed, that the defendant is not found in his bailiwick, unleſs ſuch ſheriff, or his deputy, ſhall have actually been at the place of reſidence of ſuch defendant, and, not finding him, ſhall have left a true copy of the proceſs; or unleſs ſuch defendant's place of reſidence is unknown to ſuch ſheriff or officer. If the defendant cannot be arreſted by the ſheriff, and ſhall be a known inhabitant of another county, the ſheriff ſhall return the truth of the caſe; and thereupon the proceſs, as to ſuch defendant, ſhall abate. When any under ſheriff ſhall have ſerved any writ of execution, or other proceſs, he ſhall endorſe thereon the time of ſervice, and ſubſcribe, as well his own name, as that of his principal, to his return thereof, under pain of forfeiting three thouſand pounds of tobacco, one half to the comonwealth, and the other to the informer, to be recovered, with coſts, by action of debt or information, in any Court of Record. It ſhall not be lawful for the ſheriff, or any other officer, to execute any writ, or other proceſs, upon Sunday, unleſs it be for treaſon, felony, or breach of the peace, or to retake a priſoner eſcaped. Every contract made between a ſheriff and any perſon in his cuſtody, except ſuch as the law preſcribes, and except bonds made for repayment of money or tobacco, actually advanced by the former, to diſcharge the other from impriſonment, ſhall be void. Every ſheriff, for collecting the public and county levies, and paying the ſame, ſhall be allowed ſix per centum. If any perſon, indebted for taxes, or levies, ſhall fail to pay the ſame, by the time limited by law, the ſheriff, or collector, may diſtrain any goods, which ſhall be found upon the lands whereon the debtor lives, and in his poſſeſſion, notwithſtanding ſuch goods may be compriſed in any deed of mortgage; and, if the taxes or levies be not paid, may proceed to the ſale thereof, as in other caſes of diſtreſs; but ſuch ſheriff or collector ſhall not ſeize ſlaves on that or any other occaſion where other goods ſufficient may be had, nor make any unreaſonable diſtreſſes, on pain of anſwering damages to the party grieved and full coſts. The ſheriff ſhall have power to collect or diſtrain for any arrears of taxes, levies, or officers fees, which may remain uncollected by his predeceſſor, at the time of his death, or removal from office; and ſhall account for the ſame, in like manner, as for other collections, and be ſubject to the like remedy, on his failing to account for and pay the ſame. Every collector ſhall deliver to the perſon, from whom taxes, levies, or fees are demanded, or his agent, if preſent, an account, ſtating diſtinctly every article of the demand, and offer to give a receipt for the ſame, and ſhall have no power to make diſtreſs, before ſuch account and receipt ſhall have been tendered, where the debtor or his agent ſhall reſide in the county, unleſs he abſcond,

If any perſon committed to jail ſhall thence eſcape, on affidavit or proof thereof by the ſheriff, or jailer, any Juſtice of the Peace, if the eſcape were from a county jail, or, if from the public jail, any judge of the court, by whoſe authority he was committed, ſhall and may iſſue as many warrants as are thought neceſſary, under his hand and ſeal, directed to all ſheriffs and conſtables in the commonwealth, reciting the cauſe of impriſonment, and the time of eſcape, and commanding every of them, in their reſpective counties and precincts, to retake ſuch priſoner, and convey and commit him to the jail of the county, wherein ſuch retaking ſhall be, there to remain until diſcharged by due courſe of law; which warrant every ſheriff or conſtable, into whoſe hands the ſame ſhall come, is hereby required to obey; and, on the committment of every ſuch priſoner, ſo retaken, the ſheriff, or jailer, to whom he is committed, ſhall give a receipt for the body, and ſhall make return thereof upon the warrant to the court, by whoſe authority the priſoner was committed. And in caſe the priſoner was charged in execution, the ſaid ſheriff or jailer ſhall keep him in cuſtody, without bail or mainprize, until he ſhall have ſatisfied the debt, or be otherwiſe diſcharged by due courſe of law. If the priſoner ſhall have been committed for breach of the peace, or behaviour; or ſhall have eſcaped before it was determined whether he ought to be tried in the General Court, for ſome crime he had been charged with, or after it was determined, that he might be tried for ſuch crime in the county court, the ſheriff, to whom he ſhall be committed, after he was retaken, ſhall cauſe him to be removed to the jail from whence he eſcaped; if he eſcaped after it was determined that he ought to be tried in the General Court, or, being charged with, or convicted of, any crime, eſcaped from the public jail, then ſuch ſheriff ſhall cauſe him to be removed to the public jail, No judgment ſhall be entered againſt a ſheriff, or other officer, in any ſuit, to be brought for, or by reaſon of, the eſcape of a debtor, in his cuſtody, unleſs the jury, who tries the iſſue, ſhall expreſly find, that the priſoner eſcaped with the conſent or through the negligence, of ſuch ſheriff, his deputy, or other officer; or that he might have been retaken, but that the ſheriff, or officer, neglected to make immediate purſuit. In caſe of any ſuch eſcape, neither with the conſent, nor through the negligence, of the ſheriff, the party at whoſe ſuit the priſoner was committed, may, by an action on the caſe, recover damages againſt any perſon or perſons, by whoſe aid in any manner he eſcaped. Any perſon furniſhing a priſoner with inſtruments, or arms, to facilitate his eſcape, ſhall be deemed guilty of a miſdemeanour, although no eſcape ſhall actually have happened. Where the ſheriff of any county ſhall have cauſe to ſuſpect, that any perſon, committed to his jail, for treaſon, felony, or other capital crime, will attempt to eſcape, or that others will endeavour to reſcue him, ſuch ſheriff is impowered and required to impreſs a ſufficient guard, for ſecuring ſuch priſoner, ſo long as he ſhall continue in priſon, and the expence of ſuch guard ſhall be levied by the court on the county, and repaid by the public. When any ſheriff ſhall be removed from office, an indenture between him and the new ſheriff, for delivering over of priſoners, or an entry upon the records of the county court, of the names of the ſeveral priſoners, and cauſes of their committment, ſhall be ſufficient to diſcharge the old, and charge the new ſheriff, as to ſuch priſoners. Where any under ſheriff hath heretofore ſo proceeded, or ſhall hereafter ſo proceed, upon any writ of execution, or other proceſs, in the courſe of the collection of levies, fees, or penalties, or in making other diſtreſſes, as that judgment may by law be thereupon entered againſt his principal ſheriff, upon motion, in every ſuch caſe, either the creditor, or the ſheriff, may, on motion, obtain judgment againſt the under ſheriff, and his ſecurities, his or their executors, or adminiſtrators, for ſuch his default, in like manner, upon ſuch notice, and ſubject to the like execution, as ſuch laws direct againſt the ſheriff.

CHAP. XCVII.

A BILL *for licenſing Counſel, Attorneys at law, and Proctors.*

SECTION I. BE it enacted by the General Aſſembly, that no perſon, except the Attorney General, ſhall be permitted by any court to practice therein as a Counſel, Attorney at law, or Proctor, unleſs he ſhall heretofore have obtained a licenſe, in the manner preſcribed by the law then in force, or until he ſhall obtain a licenſe, in writing, from three of thoſe, who ſhall be at that time, Judges of the High Court of Chancery, or General Court: which licenſe, if he produce to them a certificate, from the court of that county, wherein his uſual abode ſhall have been during twelve months next preceeding, that he is a perſon of honeſt demeanour, ſuch three Judges are empowered and required to grant, under their hands and ſeals, if, after examination, it be their opinion, that he is duly qualified. Every Counſel, Attorney, and Proctor, before he ſhall practice, ſhall, in ſome Court of Record, give aſſurance of fidelity to the commonwealth, and, moreover, in ſuch court, if he ſhall thereafter obtain a licenſe, ſhall take the oath following, "I do ſwear, that I will honeſtly demean myſelf in the practice of a Counſel, Attorney, or Proctor, and will execute my office according to the beſt of my knowledge and ability." A perſon, who ſhall have been convicted of treaſon, felony, forgery, or wilful and corrupt perjury, ſhall not be ſuffered to practice, in any court, as a Counſel, Attorney, or Proctor. If the General Court from their own obſervation, detect any mal-practice in a Counſel, or Attorney, of that court, or if a complaint, in writing, be made to them of ſuch mal-practice in the ſaid Court, or in the court of a county, city, or borough, the party accuſed ſhall be ſummoned to ſhew cauſe why an information ſhould not be filed againſt him; and if ſuch information be ordered, and he be found guilty of the matter therein charged, the ſaid General Court may either ſuſpend his licenſe, during a certain time, or vacate it altogether, as they ſhall think him to have deſerved. And the High Court of Chancery and Court of Admiralty, upon the like detection or complaint of mal-practice in thoſe courts, reſpectively, ſhall proceed in the ſame manner againſt a Counſel, Attorney, or Proctor, and may inflict the ſame puniſhment upon the offender. After the commencement of the year one thouſand ſeven hundred and eighty two, no Counſel, or Attorney at law, practiſing in the court of a county, city, or borough, ſhall be permitted by the Judges to practice the ſame profeſſion in the High Court of Chancery, or General Court.

CHAP. XCVIII.

A BILL *preſcribing the oath of fidelity, and the oaths of certain public officers.*

SECTION I. BE it enacted by the General Aſſembly, that every perſon, by law required to give aſſurance of fidelity, ſhall, for that purpoſe, take an oath in this form, "I do declare myſelf a citizen of the commonwealth of Virginia. I relinquiſh and renounce the character of ſubject or citizen of any Prince, or other ſtate, whatſoever, and abjure all allegiance, which may be claimed by ſuch Prince, or other ſtate; and I do ſwear to be faithful and true to the ſaid commonwealth of Virginia, ſo long as I continue a citizen thereof. So help me God." And no perſon ſhall have power to act, in any office, legiſlative, executive, or judiciary, before he ſhall have given ſuch aſſurance, and ſhall moreover have taken ſuch of the following oaths, if another be not ſpecially pre-

ſcribed, as adapted to his caſe. The oath of a Governor. "I elected Governor of Virginia, by the repreſentatives thereof, do ſolemly promiſe and ſwear, that I will, to the beſt of my ſkill and judgment, execute the ſaid office diligently and faithfully, according to law, without favour, affection, or partiality; that I will to the utmoſt of my power, protect the citizens of the commonwealth in the ſecure enjoyment of their rights, franchiſes, and privileges, and will conſtantly endeavour that the laws and ordinances of the commonwealth be duly obſerved, and that law and juſtice, in mercy, be executed in all judgments; and, laſtly, that I will peaceably and quietly reſign the government, to which I have been elected, at the ſeveral periods to which my continuance in the ſaid office is or ſhall be limited by law, and the conſtitution. So help me God." The oath of a Privy Counſellor. "I elected one of the Privy Council of Virginia, by the repreſentatives thereof do ſolemnly promiſe and ſwear, that I will, to the beſt of my ſkill and judgment, execute the ſaid office diligently and faithfully, according to law, without favour, affection, or partiality; and that I will keep ſecret ſuch proceedings and orders of the Privy Council as the Board ſhall direct to be concealed, unleſs the ſame be called for by either Houſe of the General Aſſembly. So help me God." The oath of one not ſpecially directed to take any other. "I do ſolemnly promiſe and ſwear, that I will faithfully, impartially, and juſtly, perform the duty of my office of according to the beſt of my ſkill and judgment. So help me God." The ſaid oaths, to be taken by a member or officer of either Houſe of General Aſſembly, ſhall be adminiſtered by any member of the Privy Council, and the taking thereof ſhall be certified to the clerk of ſuch Houſe; and the ſaid oaths to be taken by any other perſon, if it be not otherwiſe directed, ſhall be adminiſtered in ſome Court of Record, or by any Judge or Juſtice thereof, and the taking thereof ſhall be recorded in the ſaid court.

CHAP. XCIX.

A BILL to prevent the ſale of Public Offices.

SECTION I. BE it enacted by the General Aſſembly, that if any perſon ſhall, for valuable conſideration, diſpoſe of any office which concerns the receipt, or the controlment or auditing accounts, of the public revenue, taxes, or duties; the office of Attorney for the commonwealth, clerk of the Council, or of any other public board, clerk of a Court of Record, ſheriff, Naval-Officer, Advocate, Regiſter, or Marſhal of the Court of Admiralty, or any other public office, which concerns the adminiſtration of juſtice, and for the execution whereof he is intitled to fees or ſalary; or the deputation of any ſuch office; or any military office; or ſhall make any bargain for that purpoſe, the ſeller, if he be the officer, ſhall forfeit the office, or, if he have the power of nomination to it, ſhall be deprived of the office in virtue of which he exerciſeth that power; and in either caſe he in whoſe behalf the bargain was made ſhall be forever diſabled to hold the office ſo bargained for; and every bond or contract made upon, or in conſequence of, ſuch bargain ſhall be void; and, moreover, the parties to the bargain ſhall be puniſhed, by impriſonment and amercement at the diſcretion of a jury.

CHAP. C.

A BILL directing the method of proceeding upon impeachments.

SECTION I. BE it enacted by the General Aſſembly, that the proceſs againſt any perſon impeached by reſolution of the Houſe of Delegates ſhall be ſummons, attachments and diſtreſs, bearing teſte, the firſt of them the day of emanation, and the others the return-day of the proceſs preceeding, and ſhall be iſſued and ſigned by the clerk of the ſaid court. A copy of the articles of impeachment ſhall be delivered to the party accuſed, whenſoever he ſhall require it; and the court ſhall from time to time make ſuch rules for compelling him to anſwer and bringing the matter to iſſue ſpeedily as to them ſhall ſeem reaſonable; and every fact ſo put in iſſue ſhall be tried by a jury.

CHAP. CI.

A BILL for regulating proceedings in Courts of Equity.

SECTION I. BE it enacted by the General Aſſembly, that original and ſubſequent proceſs to bring any perſon to anſwer a bill, petition, or information, exhibited in the High Court of Chancery, ſhall run in the name of the commonwealth, bear teſte, in the name of the firſt Judge of the court, the laſt preceeding return-day, be iſſued and ſigned by the clerk, and be returnable to the firſt or ſeventeenth day of the next ſucceeding, or of the current term, unleſs another return-day be, in extraordinary caſes, ſpecially directed or authoriſed by ſome ſtatute; but the day it ſhall be iſſued ſhall be endorſed thereon, and noted in the book wherein the names of the parties ſhall be firſt entered. The day of appearance to the proceſs ſhall be the ſecond day after the end of the term. All proceſs from the court of a county, city, or borough, in Chancery ſhall run in the name of the commonwealth, bear teſte, in the name of the clerk of the peace, the day it ſhall be taken out, be iſſued and ſigned by him, and be returnable to the next ſucceeding ſeſſion. If the complainant ſhall not appear at the day of appearance, in the High Court of Chancery, or at the ſeſſion, when the cauſe ſhall be firſt called, in any other court, the ſuit ſhall be diſmiſſed. The defendant, when he ſhall firſt enter his appearance, may give a rule to the complainant to put in his bill, if it ſhall not have been filed before. When a ſuit ſhall be diſmiſſed for want either of appearance or proſecution, the defendant ſhall recover coſts of the complainant. A complainant may have leave, without application to the court, to amend his bill at any time before he ſhall have replied to the anſwer, paying to the defendant all his coſts occaſioned thereby; and if he ſhall not file the amended bill, within the ſame time as is allowed for filing the original bill, the ſuit may be diſmiſſed. Rules to file bills and replications and for other proceedings in the High Court of Chancery, ſhall be given with the clerk in vacation, and in every other court ſhall be given with the clerk in ſeſſions, and ſhall be entered, the former in a book to be kept for that purpoſe, and the latter with the other proceedings of the court, and every ſuch rule ſhall be out in one month, ſo that, if the party make default, the ſuit may be diſmiſſed, or ſuch order be made as is propor in the caſe. All proceedings in the clerks office of the High Court of Chancery may, from time to time, be controuled by the court in the ſucceeding term, who may alſo ſet aſide diſmiſſions and reinſtate cauſes upon ſuch terms as to them ſhall ſeem equitable. If the defendant ſhall not appear, at the day of appearance, in the High Court of Chancery, or at the ſeſſion when the cauſe ſhall be firſt called, in any other court, the ſubpœna having been ſerved upon him, and ſuch ſervice being proved, either

by the return of a ſworn officer, or by the affidavit of ſome other perſon, or if the defendant, having appeared, ſhall not put in his anſwer to the bill, before the expiration of three months, in either caſe an attachment ſhall be awarded againſt him; and ſuch attachment, iſſuing from the court of a county, city, or borough, may be directed to, and ſhall be obeyed by, the ſheriff of any other county. A defendant may ſwear to his anſwer before a Judge of the court, in which the ſuit ſhall be depending, or before a Juſtice of the Peace of any county, city, or borough. The defendant, to a croſs bill, ſhall not be compelled to put in his anſwer thereto, before the complainant, in the croſs bill, ſhall have put in his anſwer to the other bill; nor ſhall an attachment be awarded againſt the defendant to the croſs bill for not anſwering, until the expiration of three months after ſuch anſwer to the firſt bill ſhall have been put in. If the complainant ſhall not except or reply to the anſwer, before the end of two months after it ſhall have been put in, a rule may be given him to reply. Exceptions to an anſwer, if, before the end of two months after they ſhall have been filed, another anſwer be not put in, ſhall be ſet down to be argued. The complainant ſhall pay coſts to the defendant, if the anſwer be adjudged ſufficient, and recover them of him, if otherwiſe; the coſts ſhall be doubled, if a ſecond anſwer be adjudged inſufficient; and if a third be ſo adjudged, the defendant, beſides paying coſts, ſhall be examined upon interrogatories, and be committed until he anſwer them. When the anſwer of a defendant, put in after proceſs of contempt ſerved upon him, ſhall have been excepted to, and adjudged inſufficient, if he put not another anſwer in, at or before the next term, or ſeſſion, the bill may be taken for confeſſed, unleſs it ſeem reaſonable to the court to allow the defendant further time to put in ſuch other anſwer. If the matter of a plea by verdict be found falſe, the complainant ſhall have the ſame advantage thereof as in caſe of a verdict in a court of common law. After any iſſue, made upon a plea, ſhall have been tried, or any demurrer ſhall have been over-ruled, no other plea or demurrer to the ſame bill ſhall be admitted; but the defendant ſhall anſwer the allegations of the bill. If the complainant ſhall not reply to a plea, or ſet down a demurrer to be argued, at the end of two months after they ſhall have been filed, his bill may be diſmiſſed. If the matter of a plea be found true, or a demurrer adjudged good, the defendant ſhall recover coſts; but, otherwiſe, the complainant ſhall recover coſts to that time; and, unleſs the defendant put in an anſwer, before, or at, the end of two months thereafter, the bill ſhall be taken for confeſſed, and the matter thereof decreed. Any party may have commiſſions to take the examinations of his witneſſes, and, reaſonable notice being given to his adverſary of the time and place of executing the commiſſions, ſuch examination of any witneſs, who may be lawfully be examined viva voce, may be read as evidence at the trial, if the party, at whoſe inſtance the witneſs was examined, ſhall prove, that he was not in the commonwealth, or was dead, or ſo infirm that he could not attend perſonally, and not otherwiſe. Every matter of fact, affirmed by one party, and denied by the other, in a bill, and anſwer, or plea, ſhall be ſtated as a formal iſſue, and tried before the ſame court, by a jury, in like manner as ſuch iſſue ought to be tried in a court of common law, and upon like evidence as is there admiſſible, and not otherwiſe; for trial of which iſſue the ſheriff attending the court ſhall ſummon the jury, and the clerk ſhall iſſue ſubpœneas for ſummoning the witneſſes, in the ſame manner as they do in the courts of common law; and the perſons ſo ſummoned ſhall be ſubject to the power of the court, in the ſame manner, intitled to the ſame allowances, and liable to the ſame penalties, as they are in thoſe courts. Auditors appointed by the court may examine the parties, upon oath, touching any matters in queſtion, and ſhall have ſuch allowance for their trouble in taking the account as the court ſhall adjudge reaſonable, to be paid by ſuch party as the court ſhall think juſtly chargeable therewith. The proceedings of the High Court of Chancery ſhall be entered and daily drawn up by the clerk, and, the neceſſary corrections being made, ſhall be ſigned the next day, by the preſiding Judge, except on the laſt day of a term, when they ſhall be ſigned the ſame day; and the minutes of the proceedings of every other Court of Chancery ſhall be entered by the clerk, and ſigned by the preſiding Juſtice, before the adjournment, and the ſaid proceedings ſhall afterwards be drawn up at large. The bills, anſwers, replications, and depoſitions, in every cauſe, with the orders, decrees, and other proceedings, of the court, ſhall be recorded in well bound books, to be carfully preſerved. Any two Judges of the High Court of Chancery, when it is not ſitting, may grant writs of certiorari, ne exeat, and injunction, in the ſame manner as the court may grant them. But, before any writ of certiorari, to remove a cauſe, ſhall be iſſued, the party deſiring it ſhall produce an affidavit, that ten or more days notice in writing of the time when, and place where, a motion would be made to the court, or a petition be preſented to the two Judges for that purpoſe, had been given to the adverſe party; the truth of the allegations of which petition ſhall be ſworn to, or be otherwiſe proved; and he ſhall give bond, with ſufficient ſurety, in ſuch penalty, payable to the other party, as the court, or Judges ſhall direct, with condition for performing the decree of the court. No writ of ne exeat ſhall be iſſued, if the demand be triable in a court of common law; nor before a bill ſhall have been filed, with affidavits, or othe evidence, to prove the allegations thereof to be true; nor before the complainant ſhall have given a bond, with ſufficient ſurety, in a penalty directed by the court, or Judges, payable to the defendant, with condition for payment of all ſuch damages and coſts as ſhall be recovered by him againſt the complainant, by occaſion of ſuing out the ſaid writ; which bond ſhall be delivered to the defendant. On the writ ſhall be endorſed the penalty in which bond ſhall be taken in execution thereof. If the defendant ſatisfy the court or Judges by anſwer, affidavit, or otherwiſe, that he hath no deſign to leave the country, or that he is not indebted to the complainant, the writ ſhall be diſcharged. No writ of injunction to the judgment, or proceedings, in any action at common law, ſhall be iſſued, unleſs affidavit, or other proof, be made, that the allegations of the bill are true; nor before bond, with ſufficient ſurety, and in an adequate penalty, payable to the plaintiff in the action, be given, with condition for payment, as well of the debt or damages recovered, or to be recovered, in the action, as of all ſuch coſts and damages as ſhall be awarded to the ſame plaintiff, in caſe the injunction be diſſolved; which bond ſhall be delivered to him. Any party may appeal to the High Court of Chancery from a decree of the court of any county, city, or borough, giving bond, within ten days thereafter, with ſufficient ſurety, in an adequate penalty, payable to the adverſe party, with condition for performance of the decree, if it be affirmed, or ſo much of it as ſhall be affirmed, and for payment of the damages and coſts which ſhall be awarded to the appellee. If the appeal be not entered at the ſeſſion when the decree ſhall have been pronounced, the party thinking himſelf aggrieved may, within three months afterwards, appeal therefrom, lodging for that purpoſe, with the clerk of the High Court of Chancery, a copy of the proceedings in the cauſe, and a petition ſuggeſting error in the decree, ſigned by ſome counſel attending that court, and alſo lodging with the petition, a bond, with ſufficient ſurety, in like penalty, and with like condition, as in the other caſe; and the clerk ſhall thereupon iſſue a ſummons againſt the appellee, requiring him to appear, and anſwer the ſaid petition and appeal; and ſhall alſo iſſue a ſuperſedas, when it ſhall be neceſſary, to ſurceaſe further proceeding, in execution of the decree; and the court ſhall and may hear and determine the appeal, in the ſame manner, as if it had been entered at the time the decree ſhall have been pronounced; and in both caſes the bonds ſhall be delivered to the appellees. In any ſuit in the High Court of Chancery, againſt a defendant, reſiding out of the country, the court may order any other party in the ſuit to retain the eſtate or effects of the abſent defendant, which he may have in his hands or poſſeſſion, or ſo much thereof as ſhall be ſufficient to anſwer the demand of the complainant, or make ſuch other order, for ſecuring the eſtate and effects, for that purpoſe, as ſhall be thought effectual, unleſs ſecurity, to be approved by the court, be given to perform the decree; the complainant firſt

making affidavit, that the demand is juſt. If a defendant or other perſon, againſt whom a ſubpœna or other proceſs ſhall be iſſued from the High Court of Chancery, ſhall not cauſe his appearance to be entered, within ſuch time, and in ſuch manner, as it ought to have been entered, in caſe the proceſs had been ſerved, affidavit being made, that the defendant is not in the country, or that there is good reaſon to believe he abſconds, to avoid being ſerved with proceſs, the court may make an order, that the defendant appear at a certain day, to be appointed, and a copy of the order ſhall, within fourteen days, be printed in the Virginia Gazette, and, if he reſide in the country, publiſhed at the court-houſe of the county, wherein was his uſual abode, within ſix weeks after making the order, and ſhall alſo be poſted up at the front door of the houſe, in which the court ſhall ſit. And if the defendant ſhall not appear at or before the day appointed, or at or before ſuch further day as the court, if they ſee cauſe, ſhall allow, the court may order the bill to be taken for confeſſed, and make ſuch decree as ſhall ſeem juſt, and award proceſs to compel the performance thereof, either by immediate ſequeſtration of the real and perſonal eſtate and effects of the defendant, or ſo much thereof as ſhall be ſufficient to ſatisfy the demand of the complainant, or by cauſing the eſtate or effects claimed by the complainant to be delivered to him, or by granting ſuch other relief as may ſeem proper, according to the nature of the caſe, and agreeable with the principles of equity; the complainant firſt giving ſufficient ſecurity to perform ſuch order, touching the reſtitution and diſpoſition of the eſtate and effects, as the court ſhall make upon the appearance of the defendant, and paying reaſonable coſts; or if the complainant fail, or be unable to give ſecurity, the court may order the eſtate and effects, ſequeſtered, or whereof poſſeſſion ſhall have been ordered to be delivered, to remain under the direction of the court, appointing a receiver thereof, or otherwiſe, until ſuch further order ſhall be made as the court ſhall think juſt. The court of any county, city, or borough, in Chancery, may proceed in the ſame manner, againſt any citizen out of the country, or abſconding, to avoid being ſerved with the proceſs of ſuch court, and ſhall have the ſame power over his eſtate and effects as the High court of Chancery, if it appear, to the ſatisfaction of ſuch inferior court, by affidavit, or of their own konwledge of the fact, and be ſo entered in their proceedings, that the Defendant had formerly reſided within their juriſdiction, and had not removed out of it ſo long as one year before the ſubpœna iſſued. If a defendant, brought before any court of Chancery, by virtue of the proceſs thereof, ſhall refuſe or neglect to enter his appearance, or to appoint an Attorney to act on his behalf, the court may appoint an Attorney to enter an appearance for him; and thereupon ſuch proceedings may be in the cauſe, as if the defendant had appeared: but no proceſs ſhall be iſſued, to compel the performance of a decree, made upon a refuſal, or neglect, to enter an apparance, or to appoint an Attorney, before the defendant, if he be in cuſtody, or forth-coming, ſhall have been ſerved with a copy of of the decree. The copy of a decree againſt a defendant, out of the country, or abſconding, made for not appearing, ſhall be ſerved upon him, if, within ſeven years after it ſhall have been made, he return, or become publickly viſible, or, in caſe of his death, upon the heir, deviſee, executor, or adminiſtrator, repreſenting him, as to the matter in controverſy. If the defendant, or his repreſentative, having been ſerved with a copy of ſuch decree, ſhall, within ſeven months after the ſervice, or, not having been ſerved with the copy, if he, or his repreſentative, or any perſon claiming under him, by virtue of any act prior to the commencement of the ſuit, ſhall, within ſeven years after making the decree, apppear in court, and petition to be heard, with reſpect to the matter of the decree, and ſhall pay down, or give ſecurity for payment of, ſuch coſts as the court ſhall think reaſonable, the petitioner may be admitted to anſwer the bill, and iſſue may be joined, and witneſſes on both ſides examined, and ſuch other proceedings, decree, and execution, may be thereupon, as there might have been, if the party had originally appeared, and the ſuit had then been newly begun, or as if the former decree had not been made. But if the defendant, or his repreſentative, having been ſerved with a copy of ſuch decree, ſhall not, within ſeven months after the ſervice, or, not having been ſerved with the copy, ſhall not, within ſeven years after making the decree appear, and petition, that the cauſe may be reheard, and pay down, or give ſecurity for payment of ſuch coſts as the court ſhall think reaſonable, the decree ſhall ſtand confirmed againſt the defendant, and all perſons claiming under him, by virtue of any act, ſubſequent to the commencement of the ſuit: and the court, at the end of the ſeven years, may make ſuch further order as ſhall ſeem juſt and reaſonable, according to the circumſtances of the caſe. An attachment againſt a defendant, for a contempt, in not appearing to anſwer a bill, or in not anſwering a bill, ſhall be executed in the ſame manner as a writ of capias in an action at common law, whereon no direction to take bail is endorſed; and where any ſuch attachment ſhall appear, by the return thereof to have been executed, if the defendant ſhall not appear, or anſwer, the bill be taken for confeſſed, and the matter thereof decreed; and if the demand be not aſcertained by the bill, and exhibits, or one of them, a jury ſhall be impaneled to enquire of and aſſeſs, the damages, at the following term, or ſeſſion, in the ſame manner as in the caſe of an interlocutory judgment at common-law. In taxing coſts, a lawyer's fee ſhall be allowed to the party who ſhall recover coſts.

CHAP. CII.

A BILL *for regulating proceedings in Courts of Common Law.*

SECTION I. BE it enacted by the General Aſſembly, that all writs, given by the twenty-fourth chapter of the ſtatutes, made in the thirteenth year of the reign of King Edward, the firſt, of England, and heretofore in uſe, ſhall continue to be uſed, in the ſame manner as if that ſtatute were hereby re-enacted. Actions of account may be maintained againſt the repreſentatives of deceaſed guardians, bailiffs, and receivers, and alſo by one joint tenant, or tenant in common, or his executor, or adminiſtrator, againſt the other, as bailiff for more than his ſhare; and the auditors appointed by the court, in any action of account, may examine the parties, upon oath, touching the matters in queſtion; and ſhall have ſuch allowance, for their trouble in taking and auditing the accounts, as the court ſhall adjudge to be reaſonable, to be paid by the party againſt whom the balance of the account ſhall appear to be. The repreſentatives of a deceaſed executor, whether rightful or wrongful, who ſhall have converted to his own uſe, or waſted the eſtate of his teſtator or inteſtate, ſhall be chargeable for ſuch converſion or waſte of the aſſets in their hands, in the ſame manner as their teſtator or inteſtate might have been charged. Proceſs, from the General Court, ſhall run in the name of the commonwealth, be iſſued and ſigned by the clerk, and bear teſte in the name of the Chief Juſtice, the preceeding return-day; but the day it iſſued ſhall be endorſed thereon, and noted in the book where the names of the parties to the ſuit are firſt entered. The return-day of proceſs, iſſuing from the General Court, to arreſt or ſummon perſons to anſwer in actions real, perſonal, and mixt, where other days be not in extraordinary caſes eſpecially directed or authoriſed by ſome ſtatute, ſhall be the eighth and twenty third days of the March and October terms, and of proceſs, in pleas of the commonwealth, the firſt day of the term after the emanation; and no proceſs ſhall be returnable later than to ſome day of the next term but one after emanation. Proceſs, from the court of a county, city, or borough, ſhall run in the name of the commonwealth, be iſſued by the clerk of the peace, bear teſte in his name, be

ſigned by him, and, if not an exigent, ſhall be returnable to the ſeſſion next after the teſte, unleſs where, if the proceſs be to arreſt one in a civil action or ſuit, ſuch next ſeſſion will happen within three days after the teſte, in which caſe the proceſs ſhall be returnable to the ſeſſion in the month following; and every ſuch proceſs, to arreſt one, ſhall be executed at leaſt three days before the return-day thereof. Proceſs in an action at common law, againſt the Governor, a member of the Privy Council, a Judge, or a clerk of the High Court of Chancery, General Court, or Court of Admiralty, or a ſheriff, ſhall be ſummons and diſtreſs, and againſt ſuch Governor, Judge, or clerk, ſhall iſſue from the General Court, if the value of the matter in controverſy exceed ten pounds; and proceſs in any ſuch action, to arreſt a perſon ſo privileged, or iſſuing againſt ſuch Governor, Judge, or clerk, from any other court, than the General Court, ſhall be void. Such action againſt a Governor, Judge, or clerk, ſhall be tried, if the plaintiff require it, on ſome day in the term next, or next but one, after the iſſue ſhall be joined, unleſs good cauſe for deferring the trial be ſhewn; but if more than two Judges of the General Court be parties or intereſted, the caſe ſhall be adjourned to the Court of Appeals, and be tried before them at their firſt or ſecond ſeſſion after the adjournment, if no good cauſe for deferring the trial be ſhewn. The ſecond days next after the March and October terms ſhall be the days of appearance upon proceſs from the General Court, returnable to the eighth and twenty-third days of thoſe terms reſpectively. Every party to any civil action, not allowed to ſue in forma pauperis, unleſs he be under the age of twenty-one years, or of unſound mind, and in that caſe his guardian, to be ſpecially aſſigned by the court, may, by warrant, under his hand or by appointment perſonally declared in court, empower an attorney to appear for him, and without ſuch authority, entered of record, no attorney ſhall be permitted to appear, neither ſhall any act done by him bind the party. Warrants of attorney to confeſs judgments, or ſuffer them to paſs by default, and releaſes of error, made before the actions brought, ſhall be void; and an attorney appearing by ſuch warrant, knowing it to have been made before the action brought, ſhall forfeit and pay to the defendant the amount of the debt or damages, for which the judgment ſhall be given to be recovered by action of debt; and ſhall moreover be liable to his action for damages. In any action, if affidavit be made before ſome Juſtice of the Peace, or the clerk who ſhall iſſue the writ, that the debt demanded, or the value of the goods detained, or alledged to have been converted to the uſe of the defendant, or the damage ſuſtained by non-performance of the condition, covenants, promiſe, or agreement, for which the action is brought, amounts to a certain ſum, exceeding ten pounds, if the action be in the General Court, or five pounds, if in the court of a county, city, or borough, or, if a Judge of the court, from which the writ ſhall iſſue, certify in writing, under his hand, that the defendant appeared, by affidavit, to have been guilty of a mayhem, or of a violent battery, and ought to give bail in a certain ſum, or, if the action be founded upon ſome act of the General Aſſembly, requiring the defendant to give bail, the clerk, at the requeſt of the plaintiff, ſhall endorſe on the writ a direction, with his name thereunto ſubſcribed, that the ſheriff or officer take bail, in the ſum mentioned in the affidavit, or certificate, which ſhall be lodged with the clerk, or in a ſum equal to the forfeiture inflicted by the act, if it be aſcertained, or, if not, in the amount of ſuch damage as the plaintiff ſhall make affidavit, in manner aforeſaid, to have been ſuſtained. And the ſheriff, or other officer, ſhall diſcharge out of his cuſtody, every perſon arreſted by force of ſuch writ, or by a capias, upon an indictment of treſpaſs, or miſdemeanor, upon ſufficient ſurety given to appear at ſuch day and place as the writ ſhall require. And the bonds, executed by the defendant and ſurety, ſhall be returned with the writ. And if no direction, to take bail, be endorſed on the writ, in any action perſonal, the ſheriff, or other officer, ſhall not arreſt the body of the defendant, but ſhall ſerve him perſonally with a copy of the proceſs againſt him; and, if he ſhall not appear, at the time and place he ought to do ſo, the plaintiff may proceed againſt him, in the ſame manner as if the defendant had entered his appearance. No perſon ſhall be out-lawed in any action quare vi et armis. Whenſoever a writ of exigent ſhall be ſued out in any civil caſe, it ſhall be directed to the ſheriff of that county wherein the laſt place of abode of the defendant was, and, iſſuing from the court of a county, city, or borough, ſhall be returnable to the ſixth ſeſſion next after the teſte, and ſhall be audibly read by the ſaid ſheriff, who ſhall alſo ſet up copies thereof at the door of the court-houſe of his county five ſeſſions, ſucceſſively; and if the defendant be returned five times required, and ſhall not appear at or before the return of the writ of exigent, the plaintiff may proceed, in the ſame manner, as he might have proceeded againſt the defendant, if he had appeared. If a defendant, arreſted by force of any proceſs, and enlarged upon giving a bail-bond, with ſurety, for his appearance, to the ſheriff, or other officer, ſhall not appear accordingly, or offering to appear, and being ruled by the court to put in ſpecial bail, ſhall neither put in ſuch bail, nor ſurrender himſelf to priſon, the plaintiff may proceed againſt him, in the ſame manner, as if the defendant had appeared, and put in ſpecial bail; and the ſheriff or other officer, ſhall aſſign the bail-bond to the plaintiff, at his requeſt, and thereupon the ſurety ſhall be ſubject to the ſame judgment, and may make the ſame defence, as the party, for whoſe appearance he was bound, is ſubject to, and might have made; but if the ſurety ſhall not appear, judgment not ſhall be entered againſt him, until ten days at leaſt after a rule, to ſhew cauſe to the contrary, ſhall have been ſerved upon him, or, if he be not found, left at the place of his uſual abode, whereof affidavit ſhall be made and filed; and the ſurety may, at any time before ſuch judgment, put in a plea in bar thereto, or diſcharge himſelf of the action, by bringing the defendant into court, or delivering him into the cuſtody of the ſheriff, which he ſhall have the ſame power to do, as if he were ſpecial bail; or the ſurety may, at any time after ſuch judgment, by order of the court, obtain an attachment againſt the eſtate of the defendant, directed to the ſheriff of any county: which eſtate may be ſold, towards ſatisfaction of the judgment, or may be replaced, in the ſame manner, as if it had been taken in execution, by writ of fieri facias. The ſheriff, or officer, who ſhall execute proceſs, where ſpecial bail is required, neglecting to take and return the bail-bond, or taking ſuch ſurety for appearance as the court ſhall judge to be inſufficient, ſhall be liable for the demand, may make defence, and may be relievable againſt the defendant, or out of his eſtate, in the ſame manner as the ſurety; but every ſurety ſhall be deemed ſufficient, unleſs exception be made to him, and a note of ſuch exception be filed, during that term, or ſeſſion, of the court, to which the proceſs ſhall have been returned, or at the day of appearance, next after the term, and reaſonable notice, in writing, of the exception to be given to the ſheriff, or officer, ſuggeſted to be liable to juſtify the ſurety in ſome day of the term, or at the ſeſſion next after the notice, and an affidavit of the notice be made and filed. The recognizances of ſpecial bail may be taken by any Juſtice of the court, in which the action dependeth; and ſuch recognizances, in actions depending in the General Court, may alſo be taken by any perſons, being Juſtices of the Peace, whom that court ſhall appoint; and the recognizances ſhall be tranſmitted, by thoſe who take them, to ſuch court reſpectively, where any ſpecial bail may be excepted to; and if he be not juſtified, at the term, or ſeſſion, next after the recognizance ſhall have been tranſmitted, and after reaſonable notice, in writing, of ſuch exception, proved, by affidavit filed, to have been given to the party liable, in caſe the bail be adjudged inſufficient, the recognizance ſhall be diſcharged, and the plantiff may proceed in the ſame manner, as he might have done, if no recognizance had been taken; but if no exception be made, or the bail be not adjudged inſufficient, the recognizance ſhall be as effectual, as if it had been taken in court. Whoſoever ſhall perſonate another, before any authoriſed to take bail, ſhall not only be liable to the action of the party injured, but alſo be amerced, and impriſoned. Special bail may diſcharge himſelf of his recognizance as well before as after judgment againſt the defendant, either by bringing him in court, and there delivering him up,

or by delivering him to the officer who arreſted him, or his ſucceſſor, ſo as ſuch render, after judgment, be in due time, and ſo as notice, of a render to the officer, be given to the clerk of the court, where the action was commenced, within ſuch time as a render in court ought to be made; and thereupon ſuch proceedings ſhall be, as might have been if the defendant had not been bailed. If return of any proceſs, whereon a direction to take bail ſhall have been endorſed, be made, that the defendant is not found in the bailiwick of the officer, the plaintiff may ſue out an attachment againſt the eſtate of the defendant, directed to the ſame officer; and if any of the defendant's eſtate be attached, and he ſhall not replevy the ſame, by giving bond with ſurety to the officer, with condition for his appearance, at the return of the attachment, or ſhall not at that time appear and put in ſpecial bail, being ruled to do ſo by the court, the plaintiff may proceed as if the defendant had not appeared, and, judgment being given for him, the eſtate attached ſhall be diſpoſed of as if it had been taken by writ of fieri facias. A defendant, arreſted by proceſs from the General Court, in any action, not having given a bail-bond, but remaining in cuſtody, and not having put in an attorney to appear for him, ſhall, by writ of habeas corpus, to be granted to the plaintiff, at his deſire, after the day of appearance, and after the declaration filed, be brought before the court, at ſome certain day, in any term, when, if the defendant, being preſent at the bar, ſhall not enter his appearance in perſon, or put in an attorney to appear for him, and plead, upon a rule given him, to be out before the laſt day of the term, judgment may be entered againſt him, as appearing in perſon. And where a perſon ſhall ſue forth a writ from the General Court againſt a priſoner, in the public jail, the defendant, by order of the ſaid court, may be brought before them, by the jailer, at any day of the term; and the ſame proceedings ſhall be thereupon, as if the priſoner had been arreſted by force of ſuch proceſs; and, in either caſe, ſuch charge, in court, by declaration, ſignified by rule to the jailer, ſhall be a good cauſe of detention of the priſoner, in his cuſtody, and ſubject ſuch jailer, ſuffering an eſcape, to an action; and a defendant, in priſon, by force of proceſs from the court of a county, city, or borough, and brought before ſuch court, by their order, may be charged, in like manner; and the officer, in whoſe cuſtody he remains, ſhall have the ſame power to detain him, and ſhall be ſubject to the like action for an eſcape, as in the caſe of a priſoner in the public jail. In an action at common law, commenced in the General Court, the defendant, or tenant, at the day of appearance, or whenever he ſhall afterwards enter his appearance, may give the plaintiff, or demandant, a rule to put his declaration, if it ſhall not have been put in before; and, after the declaration ſhall be put in, if the defendant, or tenant, do not plead thereto, before the end of one month, the plaintiff, or demandant, may then give the defendant, or tenant, a rule to plead; and either party, at the end of one month after he ſhall have put in any pleading, may give the other party a rule to plead further, in anſwer thereto, until iſſue be joined; and every ſuch rule ſhall be entered by the clerk of the court in a book, and ſhall be out in one month; and, after the expiration of the rule, a nonſuit or judgment, againſt the party making default, ſhall be entered by the clerk, in the ſame book, as an act of the court, in the preceeding term, and ſhall ſtand confirmed, unleſs good cauſe to the contrary be ſhewn to the court, on the eighth day of the ſucceeding term, at which time any judgment entered during that interval, againſt a defendant, or againſt a defendant and his ſurety, or againſt a defendant and the ſheriff, ſhall be ſet aſide, upon the appearance of the defendant, and by his puting in ſpecial bail, if he be ruled to do ſo, and pleading, and any other proceeding, in the clerk's office may then alſo be examined, and, being judged erroneous, may be corrected by the court. A dilatory plea, or a plea of non eſt factum, ſhall not be received, unleſs the party offering it make affidavit of the truth thereof, or ſhew ſome probable matter to the court to induce them to believe the fact of the plea to be true. The defendant or tenant, in any action, or the plaintiff, in replevin, may, with leave of the court, plead as many ſeveral matters thereto, as he ſhall think neceſſary for his defence. In an action of treſpaſs quare clauſum fregit, the defendant may plead a diſclaimer, and that the treſpaſs was involuntary, and that he tendered ſufficient amends for ſuch treſpaſs before the action brought; upon which points, or ſome of them, the plaintiff ſhall join iſſue; and if the iſſue be found for the defendant, or the plaintiff be nonſuited, the plaintiff ſhall be barred. In an indictment, or information, for a libel, the defendant may plead a juſtification, and if the jury find the facts contained in the writing, ſuppoſed to be a libel, to be true, he ſhall be acquitted; and where the defendant ſhall plead not guilty to ſuch indictment, or information, or to any declaration for a libel, or for ſlanderous words, if, at the time of putting in the plea, he ſhall file a writing, therein, ſtating ſpecially, the matters of fact he will endeavour to prove, in his defence, he ſhall be admitted, on the trial, to give evidence of ſuch of the ſaid matters of fact, as are pertinent to the cauſe, in mitigation of the fine or damages. In every action of ejectment, commenced merely to try the title of the leſſor of the plaintiff to lands or tenements, ſuch leſſor, and all perſons claiming under him, ſhall be bound, and finally barred, by a judgment given againſt the plaintiff, of all right and title to the ſame lands and tenements, prior to the commencement of the action. An action ſhall not abate by death of one or more of the plaintiffs, or demandants, or of the defendants, or tenants, if it might afterwards originally be maintained by or againſt the ſurvivor or ſurvivors, ſuch death being ſuggeſted on the record. If either or both the parties die, after verdict, judgment ſhall be entered, in the ſame manner, as if they were living. An action ſhall not abate by death of either party, or of both parties, after an interlocutory, and before a final judgment, if it might, after ſuch death, originally be maintained by or againſt his or their repreſentatives; but a ſcire facias ſhall be ſued forth by the living plaintiff, or demandant, or the executor, adminiſtrator, heir, or deviſee, againſt the defendant, or tenant, or the executor, adminiſtrator, heir, or deviſee, repreſenting him or them, reſpectively, to ſhew cauſe why the debt, or other thing demanded, or the damages alledged to have been ſuſtained, ſhould not be recovered; and if the perſon, againſt whom the ſcire facias ſhall be ſued, appearing at the return of the writ, ſhall not alledge matter ſufficient to arreſt the judgment, or being returned warned, or, if return being made on two writs of ſcire facias, that he could not be found in the county, he ſhall make default, an enquiry of damages ſhall be made by a jury, which being done, judgment final ſhall be given, in the ſame manner, as it might have been, if the parties to the ſcire facias had been parties to the original action. An action brought in the name of the Governor, in behalf of the commonwealth, ſhall not abate by his death. All cauſes, civil and criminal, commenced, and all appeals entered, before the twelfth day of April, one thouſand ſeven hundred and ſeventy four, wherein George the third, King of Great Britain, or his Attorney General, was a party, or wherein other perſons, ſuing as well on behalf of themſelves as of the ſaid King, were parties, and which remain undetermined, and wherein the King's right hath devolved upon the commonwealth, ſhall ſtand revived, and be in the ſame condition as they then were, or, by virtue of any act of General Aſſembly ſince made, now are, and may be proſecuted, and in like caſes actions upon bonds and recognizances made payable to the ſaid King may be commenced and proſecuted, and execution of judgments recovered by the ſaid King, or his Attorney, or by others who ſued on behalf as well of themſelves as of the ſaid King, yet remaining unſatisfied, may be done; the name of the commonwealth, or of the Attorney General thereof being inſerted in all future forms, where the name of the ſaid King, or of his ſaid Attorney, reſpectively, ought to have been inſerted, if the government of this country, as formerly exercited under the crown of Great Britain had not been diſſolved. The court ſhall give leave to either party to an action, at any time before the trial, to amend his declaration, or other pleading, ſo that the amendment do not alter the nature of the action, or delay the trial, and the party who deſires it pay the coſts occaſioned thereby. Miſtakes and irregular

entries by the clerk of a court may, at any time before execution, be corrected and reformed by the same court. In an action upon a bond, or upon a contract, ſubjecting the party to the payment of a penal ſum, for non-performance of a condition, covenant, or agreement, the plaintiff may aſſign as many breaches as he will, and the jury, upon trial, ſhall aſſeſs damages for ſuch of theſe as ſhall be proved to have happened, or judgment upon demurrer, or by confeſſion, or by nil dicit, having been given for the plaintiff, he may ſuggeſt the like breaches upon the record, and a jury ſhall be ſummoned and charged to enquire of the truth of them, and to aſſeſs the damages ſuſtained thereby; and in either caſe judgment ſhall be for the penalty, to be diſcharged by payment of ſuch damages, with the coſts, as well as of the damages, which may be thereafter aſſeſſed, for other breaches, if any, to be ſuggeſted as often as they ſhall happen, in a writ of ſcire facias. Judgment, in an action upon a bond, for a debt, ſhall be for the penalty, to be diſcharged by payment of the principal debt, with the intereſt due, and to become due, and coſts, or for the coſts only, if the defendant ſhall, before judgment, pay into court, to the uſe of the plaintiff, the principal debt, with the intereſt then due. Private ſtatutes may be given in evidence in any caſe, without pleading them ſpecially. A defendant may plead payment of the principal debt and intereſt, in bar of an action, upon a judgment, or upon a bond, although the payment ſhall have been after the time mentioned in the condition thereof, or upon a ſingle bill; and may alſo plead a tender and refuſal, between the time of payment, and the commencement of the action. Where a demurrer ſhall be joined, in any action, the court ſhall not regard any other defect or imperfection in the writ, return, declaration, or pleading, than what ſhall be ſpecially alledged, in the demurrer, as cauſes thereof, unleſs ſomething ſo eſſential to the action or defence, as that judgment according to law, and the very right of the cauſe, cannot be given, ſhall be omitted. Upon an interlocutory judgment, the damages ſuſtained by the plaintiff, ſhall be inquired of in court; but ſuch inquiry ſhall not be made, in the General Court, at the term next after the judgment, unleſs twenty days previous notice thereof be given to the defendant, and affidavit of ſuch notice be made and filed. A queſtion of law, ariſing upon a ſpecial verdict, or upon a ſpecial caſe, ſtated by counſel on both ſides, ſhall not be argued the ſame term or ſeſſion, without conſent of parties. The clerk of every court ſhall iſſue and deliver ſubpœnas to all perſons requiring them, for ſummoning witneſſes to appear before ſuch court, at ſuch days of any term, or ſeſſion, as he ſhall be directed by ſuch perſons. No negro, mulatto, or Indian, ſhall be a witneſs, in any cauſe, if either of the parties be a white perſon. Any party, in an action, may have commiſſions, to take the examinations of his witneſſes; and, reaſonable notice being given, to his adverſary, of the time and place of executing the commiſſions, ſuch examination of any witneſs, who may be lawfully examined, viva voce, may be read, as evidence at the trial, if the party, at whoſe inſtance the witneſs was examined, ſhall prove, that he was not in the commonwealth, or was dead, or ſo infirm that he could not attend perſonally. Any perſon who having been ſummoned to appear before the court, or commiſſioners, to teſtify, and attending accordingly, ſhall refuſe to give evidence, may be committed to jail, and cloſely confined, until he ſhall ſubmit to be examined. Any perſon ſummoned to appear before the court, or the commiſſioners, as witneſſes, and failing to attend accordingly ſhall not only be liable to the party grieved, for damages, to be recovered, by an action on the caſe, but ſhall, moreover, forfeit and pay, to the ſame party, one thouſand pounds of tobacco, by rule of court, to be made abſolute, unleſs ſuch rule being ſerved upon him, good cauſe be ſhewn to the contrary, at the next term or ſeſſion. The privilege, from arreſt, of any perſon going to, attending on, or returning from a court of juſtice, ſhall continue, from the time of leaving his habitation, until his return thither, provided it exceed not one day for every twenty miles of the diſtance he muſt neceſſarily travel, over and above the time of attendance. Every witneſs ſhall be allowed one pound and a half of tobacco for every mile he ſhall neceſſarily travel, from the place of his abode, to that he ſhall have been ſummoned to appear at, and the ſame for returning, and his ferriage, and ſixty pounds of tobacco for every day he ſhall attend, in obedience to ſuch ſummons, to be paid by the party, on whoſe behalf he ſhall have been ſummoned. The forfeiture inflicted by any act of General Aſſembly, and not thereby otherwiſe appropriated, if no proſecution be commenced on behalf of the commonwealth alone for the whole, ſhall be, one half to uſe of the informer; and in either caſe, if the defendant be convicted coſts ſhall be recovered againſt him. In every action, the party for whom judgment finally ſhall be given, ſhall recover his coſts of ſuit againſt the other party, and in caſe of a non-ſuit, the defendant or tenant ſhall, moreover, recover, if the action be in the General Court, five pounds of tobacco, for every mile the place of his uſual abode is diſtant from the place, at which the proceſs, ſerved upon him, ſhall have been returnable; or, if the action be in any other court, five ſhillings, to be taxed in the bill of coſts. One, of ſeveral defendants, joined in the ſame action of treſpaſs, aſſault, falſe impriſonment, or ejectment, who ſhall, upon trial of the iſſue, be, by verdict acquitted, ſhall recover his coſts, in like manner as if all had been acquitted. In any perſonal action, the plaintiff, for whom a verdict ſhall be found, ſhall recover no more coſts, than the damages aſſeſſed by the jury, if theſe be under forty ſhillings, unleſs the title or boundaries of land, or a franchiſe, ſhall appear to the court to have been in queſtion, or unleſs the defendant be convicted of wrongful or unreaſonable diſtreſs. The clerk, in taxing coſts upon a judgment, ſhall allow, to the party who recovers coſts, five pounds, in the General Court, and thirty ſhillings in any other court, in an action, where the title or boundaries of land ſhall appear by the proceedings, or ſhall be declared by the court, and entered on the record, to have been in controverſy, on the trial, or fifty ſhillings in the General Court, and fifteen ſhillings in any other court, in a different action, not being a petition to recover a ſmall debt, and ſeven ſhillings and ſixpence, in ſuch petition, for a lawyer's fee, if a lawyer was employed by him. When a dilatory plea, or plea in abatement, ſhall be overruled, the plaintiff ſhall recover his coſts of ſuit to that time, a lawyer's fee excepted. In taxing coſts againſt the party from whom they ſhall be recovered, no office copy, taken out by, or for, the other party, of a writing, filed on behalf of himſelf, ſhall be allowed; nor ſhall the charge of more than three witneſſes to the proof of any one matter of fact, be allowed, unleſs, from the contrariety of evidence, or the great number of witneſſes, on the oppoſite ſide, or other circumſtances the court ſhall think it reaſonable to allow more. In an information, or indictment, for any treſpaſs, or miſdemeanor, or in an action againſt any perſon concerned in the adminiſtration of juſtice, for what he ſhall do in execution of his office, or by authority of a ſtatute of the commonwealth, or againſt one for a penalty incurred by breach of a ſtatute, the defendant, having pleaded the general iſſue, may, upon trial thereof, give evidence of any ſpecial matter, which if it had been pleaded, would have acquitted or juſtified him. Where there are mutual debts between the plaintiff and defendant, or where either party being an executor or adminiſtrator, there are mutual debts between the teſtator or inteſtate, and the plaintiff, or defendant, one debt may be ſet againſt the other, and ſuch matter may be pleaded in bar, or may be given in evidence upon the general iſſue, ſo as, at the time of pleading the general iſſue, notice, in writing, be given of the particular ſum or debt intended to be inſiſted on, and upon what account it became due; but if either of the debts ſhall have accrued by a penalty, contained in a bond or ſpecialty, the debt, intended to be ſet off, ſhall be pleaded ſpecially, and the amount of the ſum due ſhall be ſhewn in the plea, and the plaintiff, in caſe judgment be given for him, ſhall recover no more than ſhall appear juſtly due, after one debt ſhall be ſet againſt the other. No writ of certiorari ſhall be granted, for removing an action into the General Court, if ſuch action might not have been originally commenced there, nor after an iſſue ſhall have been joined; nor before the party praying the writ ſhall have given the adverſe party ten days notice of the time when, and place where application will be

made for it, and ſhall produce an affidavit of ſuch notice; nor unleſs the reaſons for deſiring the writ be ſtated in a petition, to be verified by affidavit, and filed; nor where the action, before removed by certiorari ſhall have been remanded by writ of procedendo; neither ſhall ſuch writ iſſue, before bond be given, with ſuch ſurety as ſhall be approved of, and in ſuch penalty, payable to the adverſe party, as ſhall be directed by thoſe who order the writ, with condition, that the party praying it, ſhall perform the judgment of the court. Such writ may be granted by two Judges of the court, in vacation; but, whenſoever granted, ſhall not be obeyed, if it be not produced to the Judges, to whom it is directed, before iſſue joined, in the action. Any perſon apprehending himſelf to be aggrieved by a judgment of the court of a county, city, or borough, if the debt, or damages, or the value of the goods ſpecifically recovered excluſive of coſts, exceed ten pounds of current money, or two thouſand pounds of tobacco, or if the title or boundaries of land, or a franchiſe, ſhall have been in queſtion may enter and proſecute an appeal, from ſuch judgment, to the General Court. Before the appeal ſhall be allowed, and before any writ of error, to reverſe any ſuch judgment ſhall iſſue, bond ſhall be given, with ſufficient ſurety, and in an adequate penalty, payable to the appellee, or defendant in error, with condition, that the appellant, or plaintiff in error, ſhall proſecute the appeal, or writ of error, with effect, and perform the judgment of the General Court; which bond, in the former inſtance, ſhall be lodged with the clerk of the court below, and, in the other inſtance, with the clerk of the court above, to be delivered to the obligee. Such bond being given, in the caſe of an appeal, the clerk of the court below ſhall forthwith ſend a tranſcript of the record to the clerk of the court above, and the ſame proceedings ſhall be thereupon, as if the tranſcript had been removed by writ of error. No appeal or writ of error ſhall be granted before a final judgment. A writ of error, wherein there ſhall be a variance from the originial record, or other defect, ſhall be amended, and made agreeable to ſuch record, by the court, to which it ſhall be returnable. Upon an appeal or writ of error, the court above ſhall give ſuch judgment as, in their opinion, the court below ought to have given. If the judgment againſt a defendant, whereby debt, or damages, or goods ſpecifically demanded, ſhall have been recovered, be affirmed, in every part, the appellee or defendant in error ſhall recover, of the adverſe party, five pounds by the year, from the time of rendering the judgment, for every hundred pounds of ſuch debt, or damages, or of the value of ſuch goods, including the coſts, and after that rate for a leſs ſum, or value, or a ſhorter time, beſides the coſts of the appeal, or writ of error; if the judgment againſt a defendant or tenant, whereby any title to lands, or a franchiſe, ſhall have been recovered, be ſo affirmed, the appellee or defendant in error ſhall recover two thouſand pounds of tobacco, beſides the coſts of the appeal, or writ of error; and if the judgment, againſt a plaintiff or demandant be ſo affirmed, the apellee or defendant in error ſhall recover fifty ſhillings, beſides the coſts of the appeal, or writ of error. No writ of error ſhall be granted in any perſonal action, if the thing recovered, excluſive of coſts, be of leſs value than ten pounds, of current money, unleſs it be by ſpecial order of the General Court, after ten days notice of a motion, for that purpoſe, ſhall have been given to the plaintiff. Upon quaſhing any writ of error, for variance from the original record, or other defect, the defendant in error ſhall recover againſt the plaintiff iſſuing the writ the ſame coſts, and in the ſame manner, as if the judgment had been affirmed. No judgment, after a verdict of twelve men, ſhall be ſtayed or reverſed, for any defect, or fault, in any writ, original or judicial; or for a variance in the writ, from the declaration, or other proceedings; or for any miſpleading, inſufficient pleading, diſcontinuance, miſjoining of the iſſue, or lack of warrant of attorney; or for the appearance of either party, being under the age of twenty one years, by attorney, if the verdict be for him, and not to his prejudice; or for not alledging any deed, letters teſtamentary, or commiſſion of adminiſtration, to be brought into court; or for omiſſion of the words, with force and arms, or againſt the peace, or for miſtake of the chriſtian name, or ſur-name, of either party, ſum of money, or quantity of merchandize, day, month, or year, in the declaration, or pleading, the name, ſum, quantity, or time, being right in any part of the record preceeding; or for omiſſion of the averment this he is ready to verify, or this he is ready to verify by the record; or for not alledging as appeareth by the record; or for omitting the averment of any matter, without proving which, the jury ought not to have given ſuch a verdict, or for any informality in entering up the judgment by the clerk; neither ſhall any judgment entered upon confeſſion, or by nil dicit, or non ſum informatus, be reverſed, or a judgment, after enquiry of damages, be ſtayed, or reverſed, for any omiſſion, or fault, which would not have been a good cauſe to ſtay or reverſe the judgment, if there had been a verdict. The proceedings of the General Court ſhall daily be drawn up, and entered, by the clerk, in a well bound book, and, having been audibly read by him, in open court, and corrected by the court, ſhall be ſigned by the preſidng Juſtice, on the following day, unleſs it be on the laſt day of a term, when they ſhall be ſigned the ſame day; which book ſhall be carefully preſerved, with the other records. The minutes of the proceedings of the court of a county, city, or borough, before their adjournment, ſhall be audibly read by the clerk, in open court, and corrected by the court, and ſigned by the preſiding Juſtice, and afterwards the proceedings ſhall be entered at large by the clerk, in a well bound book, to be carefully preſerved with the other records. Complete records of the proceſs, proceedings, and judgments of the General Court, in all actions, and of the court of every county, city, and borough, in thoſe actions, wherein there ſhall be writs of error, or appeals, or wherein the titles or boundaries of lands, or franchiſes ſhall be in queſtion, ſhall be made up by the reſpective clerks, in books well bound, and carefully preſerved with the other records; the records in thoſe actions, wherein the titles or boundaries of lands ſhall be determined, being entered in diſtinct books. The clerk of every court ſhall, on or before the firſt day of January, annually, tranſmit a liſt of the fines impoſed on jurors, and others the preceeding year, to the ſheriffs of the counties, wherein the ſame ſhall dwell, to be collected, received, and accounted for by ſuch ſheriffs in the ſame manner, as taxes; and ſhall alſo, before the firſt day of September, tranſmit the like liſts to the public Treaſurer.

CHAP. CIII.

A BILL directing the method of proceeding againſt, and trying free Perſons charged with certain crimes.

SECTION I. BE it enacted by the General Aſſembly, that any free perſon, brought before a Juſtice of the Peace of a county, and, by the teſtimony of another free perſon, charged with treaſon, or felony, done in ſuch county, ſhall be committed to jail, by warrant of ſuch Juſtice, who ſhall, by his precept, order the ſheriff to ſummon the other Juſtices to meet, in the court-houſe, at an appointed time, not more than ten, nor leſs than five days after the commitment; and ſhall take the recognizance of witneſſes, to appear before the ſaid Juſtices, at that time and place. If the offence ſhall have been done in another county, the Juſtice ſhall, by his warrant, cauſe the priſoner to be put into the cuſtody of a conſtable, to be by him conveyed to the next conſtable, and ſo from conſtable to conſtable, every

one of which conſtables, whilſt he ſhall officiate in execution of this act, may impreſs ſo many men, horſes, and boats, as ſhall be neceſſary for the ſafe-guard and conveyance of the priſoner, into ſuch other county, and there brought before ſome Juſtice thereof, who ſhall proceed in like manner as if the offender had been brought before him in the firſt inſtance. The Juſtices, ſo convened, ſhall be attended by the clerk of the peace, and any four, or more of them, who will act, having examined the witneſſes, as well for, as againſt the priſoner, in his preſence, for ſummoning which witneſſes, on behalf of the priſoner, ſubpœnas ſhall be delivered to him, or any other for him, deſiring them, by the clerk of the peace, and heard his defence, if, in their opinion, the evidence be not ſufficient to convict him, ſhall enlarge him. If it ſeem to them, that the evidence is ſufficient to convict the priſoner, but that the offence is cognizable by the court of the county, they ſhall take the recognizance of the priſoner, with ſurety, in ſuch ſum as they think proper, to appear before ſuch court, at the next ſeſſion, in which there will be a grand jury for the ſame county, or, if he do not give ſuch ſurety, ſhall remand him to jail, there to remain until ſuch ſeſſion, or until he ſhall enter into the recognizance, with ſurety before any one of the ſaid Juſtices, who ſhall return it to the clerk of the peace. If they ſhall think the offence cognizable by the General Court only, remanding the priſoner to jail, from whence he ſhall, by mittimus of two of them, be removed by the ſheriff to the public jail, and delivered to the keeper thereof, or, if they think him bailable, admitting him to bail, the Juſtices ſhall take the recognizance of the witneſſes to appear before the General Court, on the firſt day of the next term, and, cauſing the examinations of the witneſſes to be taken in writing, ſhall order them, together with the recognizances, both of the priſoner, if there be any, and of the witneſſes, to be tranſmitted by the clerk of the peace to the clerk of the General Court; and the two Juſtices, who give the mittimus, when there ſhall be one, may, by their warrant, empower the ſheriff to impreſs ſo many men, horſes, and boats, in all places he ſhall paſs through, as ſhall be neceſſary for the ſafe-guard and conveyance of the priſoner; to which warrant all perſons ſhall yield obedience, and in execution whereof the officer ſhall proceed as the law directs, in other caſes, wherein impreſſments are authoriſed. If the Juſtices ſhall be of opinion, that the priſoner may be bailed, and ſhall enter that opinion in their proceedings, and alſo the ſums of money in which he and his bail ought to be bound, he may be bailed, either by them, or by any Juſtice of the ſame county, or by any Judge of the General Court, who ſhall tranſmit the recognizance to the clerk of the General Court, and grant a warrant for the deliverance of the priſoner; and that warrant being put into the hands of the officer in whoſe cuſtody the priſoner ſhall be, he ſhall thereupon be delivered, if he be detained for no other cauſe. Any two Judges of the General Court, when it is not ſitting, may admit to bail a priſoner, whom they ſhall think intitled thereto, and grant a warrant for his deliverance, notwithſtanding the Juſtices before whom the examination was, ſhall have been of a different opinion. When the Juſtices ſhall have determined, that a priſoner ought to be tried for an offence, in the General Court, the clerk of the peace ſhall iſſue a writ of venire facias, to be directed to the ſheriff, commanding him to cauſe twelve good and lawful men, freeholders of his county, of the neighbourhood of the place where the fact ſhall have been committed, to come before the Juſtices of the General Court, at the time the witneſſes ſhall be bound to appear there; which writ ſhall be executed by the ſaid ſheriff; and the freeholders, ſummoned by virtue thereof, or ſuch of them as appear, and be not challenged, together with ſo many other good and lawful men of the by-ſtanders as will make the number twelve, or, if the whole array be challenged, twelve of ſuch by-ſtanders, ſhall be a lawful jury for the trial of the priſoner. After any man ſhall be indicted of treaſon, or felony, if he be not already in cuſtody, the ſheriff ſhall be commanded to attach his body, by writ, or by precept, which is called a capias, and if he return, that the body is not found, another writ or precept of capias ſhall be immediately made, returnable forthwith, in which the ſheriff ſhall be alſo commanded to ſeize his chattels, and ſafely to keep them; and if he return, that the body is not found, and the indictee cometh not, an exigent ſhall be awarded, and the chattels ſhall be forfeited; but if he come, and yield himſelf, or he be taken, before the return of the ſecond capias, the goods and chattels ſhall be ſaved. And in all trials for ſuch offences, the priſoner ſhall have a copy of the indictment, and of the panel of the jurors, who are to try him, whenſoever he ſhall require it before trial or ſentence. And when any of the panel ſhall be challenged by the Attorney for the commonwealth, he ſhall aſſign the cauſe of his challenge, which ſhall be enquired of according to law. When the grand jury ſhall have preſented, to the General Court, any bill of indictment againſt one charged with treaſon, or felony, the court ſhall cauſe the offender, if he be forth-coming, immediately, or ſo ſoon as conveniently may be, to be arraigned and tried the ſame term, unleſs they ſee good cauſe to adjourn the trial to the next, and ſhall allow him counſel to aſſiſt him at his trial, if he deſire it. Written examinations of witneſſes, taken by virtue of commiſſions, which may be iſſued by the clerk of the peace, or the clerk of the General Court, on behalf of the commonwealth, or the perſon charged with treaſon, or felony, may be read in evidence upon his trial, in the like caſes as the examinations, taken by ſuch commiſſions, may be read on trial of an iſſue between party and party in the General Court. When any priſoner, committed for treaſon or felony, and applying to the General Court, by petition, or motion, the firſt day of the term, ſhall deſire to be brought to his trial before the end thereof, and ſhall not be indicted in that term, unleſs it appear, by affidavit, that the witneſſes againſt him cannot be produced in time, the court ſhall ſet him at liberty, upon his given bail, in ſuch penalty as they ſhall think reaſonable, to appear before them at a day, to be appointed, of the ſucceeding term; and he, and every other perſon, charged with ſuch crime, who ſhall not be indicted before, or at the ſecond term after he ſhall have been committed, unleſs the attendance of the witneſſes againſt him appears to have been prevented by himſelf, ſhall be diſcharged from his impriſonment, if he be detained for that cauſe only; and if he be not tried at or before the third term, after his examination before the Juſtices, ſhall be forever diſcharged of the crime. The clerk of the peace, when the Juſtices of his county ſhall have determined that a priſoner ought to be tried in the General Court, ſhall deliver ſubpœnas for ſummoning his witneſſes, to him, or any perſon on his behalf, requiring them, returnable at the ſame time as the witneſſes for the commonwealth ſhall be bound to appear; which ſubpœnas the officers to whom they ſhall be directed ſhall obey; and the clerk of the General Court ſhall cauſe ſubpœnas, for the ſame purpoſe, and at the like requeſt, to be delivered to the priſoner, or his agent; and the witneſſes for the priſoner ſhall be examined, upon oath, in the ſame manner as other witneſſes. The keeper of the public jail, by warrant of any two Juſtices of his county, may impreſs ſo many men to attend him for the ſafe-guard of priſoners in his cuſtody, and during ſuch time as ſhall be mentioned in the warrant, ſo as no one of them be compelled to attend more than one day in a week; the charge whereof ſhall be defrayed by the public. In a preſentment to the county court, if the penalty of the offence exceed not thirty ſhillings, or three hundred pounds of tobacco, or, to the General Court, if the penalty exceed not five pounds of current money, or one thouſand pounds of tobacco, no information thereupon ſhall be filed, but a ſummons ſhall be iſſued againſt the defendant to anſwer the preſentment, and, ſuch ſummons having been ſerved upon him, or a copy thereof having been left at the place of his uſual abode, where the proſecution ſhall be in the county court, at leaſt ten days before the return day, if he do not appear, judgment ſhall be entered againſt him for the penalty; and if he do appear, the court ſhall, in a ſummary way, without a jury, hear and determine the matter of the preſentment, in the form in which it ſhall have been made, and give judgment thereupon, according to law, and the very right of the cauſe, diſregarding any exception that may or might be taken to the form of the preſent-

ment. Execution of a ſentence of death ſhall not be done in leſs time than thirty days after judgment ſhall have been given againſt the priſoner. All ſuch expences as ſhall be incurred by the apprehenſion, committment, examination, and removal of offenders, triable in the General Court only, ſhall be defrayed by the county wherein the matter ſhall have been tranſacted, and reimburſed by the public. The clerk of the General Court ſhall enter in books, to be kept for that particular purpoſe, the names of jurors, attending for the trials of priſoners, and the names of witneſſes, appearing on behalf of the commonwealth, againſt them, with accounts of the days they ſhall have attended, and certify ſuch entries to the Board of Auditors.

CHAP. CIV.

A BILL directing the method of trying Slaves charged with treaſon or felony.

SECTION I. BE it enacted by the General Aſſembly, that the Juſtices of every county ſhall be Juſtices of Over and Terminer, for trying ſlaves charged with treaſon or felony: Which trials ſhall be by five at the leaſt, without juries, upon legal evidence, at ſuch times as the ſheriffs ſhall appoint, not being leſs than five, nor more than ten, days after the offenders ſhall have been committed to jail. No ſlave ſhall be condemned in any ſuch caſe, unleſs three-fourths, or more, of the Juſtices ſitting upon his or her trial, ſhall agree in opinion, that the priſoner is guilty. The value of a ſlave condemned to die, who ſhall ſuffer accordingly, or before execution of the ſentence periſh, to be eſtimated by the Juſtices triers, ſhall be paid by the public to the owner. One being detained in ſlavery, and having commenced an action to aſſert his freedom, ſhall be proſecuted and tried for any ſuch crime, in the ſame manner as a freeman ought to be proſecuted and tried.

CHAP. CV.

A BILL for reforming the method of proceeding in writs of right

SECTION I. BE it enacted by the General Aſſembly, that, for trial of diſputed titles to lands in a more ſimple mode than that which hath moſt commonly been uſed of late, the claimant or demandant of an eſtate in fee ſimple may ſue forth, againſt the poſſeſſor or tenant, a writ of praecipe quod reddat; which iſſuing from the General Court, ſhall be in this form, or to this effect: "The commonwealth of Virginia to the ſheriff of E, greeting. Command C D, that he, juſtly, and without delay, render unto A B, tenement containing of land, with the appurtenances in the hundred of in the county of E, which he claimeth to be his right, and whereof he complaineth, that the aforeſaid C D doth withhold the poſſeſſion And unleſs he ſhall do ſo, then ſummon the ſaid C D, that he appear before the Juſtices of our General Court, at on the day of the next court, to ſhew wherefore he hath not done it. And have you there then this writ. Witneſs Chief Juſtice of our ſaid court, at the day of in the year ." And iſſuing from the court of a county, city, or borough, in the like form, with neceſſary alterations; and ſhall be directed to the ſheriff of that county, or to the proper officer of that city, or borough, wherein the tenant reſideth, or that wherein was his laſt place of abode. Upon which writ the count ſhall be in this form, or to this effect: " E to wit: A B, by F G, his Attorney, demands againſt C D tenement, containing of land, with the appurtenances, in the hundred of in the county of E, and bounded by And whereupon the ſaid A B ſaith that he hath right to have the tenement aforeſaid, with the appurtenances, and offereth proof, that ſuch is his right."

SECT. II. IF ſeveral tenements be demanded in the ſame count, the contents, ſituations, and boundaries of each ſhall be inſerted therein. To which count the tenant may plead in this form, or to this effect: " And the aforeſaid C D, by H I, his Attorney, cometh, and defendeth the right of the ſaid A B, when and where it behoveth him, and all that concerneth it, and whatſoever he ought to defend, and chiefly the tenement aforeſaid, with the appurtenances, as of right namely tenement containing of land in the hundred of in the county of E, and bounded by and putteth himſelf upon the aſſize, and prayeth recognition to be made, whether he hath greater right to hold the tenement aforeſaid, with the appurtenances, as he now holdeth it [or them] or the ſaid A B to have it as he now demandeth it [or them]." And to ſuch plea the replication ſhall be in this form, or to this effect: " And the aforeſaid A B, in like manner, putteth himſelf upon the aſſiſe, and prayeth recognition to be made, whether he hath greater right to hold the tenement aforeſaid, as he demandeth, or the ſaid C D as he holdeth it [or them]." Whereupon twelve good and lawful men, qualified as jurors are required to be, ſhall be elected, tried, and charged, as the manner is, to make recognition of the aſſize; which charge ſhall be in this form, or to this effect: " You ſhall ſay the truth, whether C D hath more right to hold the tenement, which A B demandeth againſt him, by his writ of right, or A B to have it [or them] as he demandeth." And at the trial, any matter may be given in evidence, which might have been ſpecially pleaded. And upon the verdict, or in the caſe of a demurrer, the like judgment ſhall be given, and upon ſuch judgment the like execution awarded, as in caſe of a writ of right; and the party, for whom judgment ſhall be given, ſhall recover his coſts of ſuit; and the demandant, if he recover his ſeiſin, may alſo recover damages to be aſſeſſed by the recognitors of aſſize, for the tenant's withholding poſſeſſion of the tenement demanded. Where the praecipe quod reddat ſhall iſſue from the General Court, if return thereof be made, that the tenant is not found in the bailiwick of the officer, to whom it was directed, the demandant may ſue forth a writ of exigi facias in this form, or to this effect: " The commonwealth of Virginia to the ſheriff of E, greeting. We command you, that you cauſe C D to be required, from county court to county court, until five courts be paſſed, if he doth not appear; and if he doth appear, then ſummon him, that he be before the Juſtices of our General Court, at on the day of the next court, to ſhew wherefore he hath not rendered unto A B tenement, containing of land, with the appurtenances, in the hundred of in the county of E. And have you there then this writ. Witneſs Chief Juſtice of our ſaid court, at the day of in the year ." And when the reſidence, or laſt place of abode of the tenant, ſhall be out of the county, in which the land demanded lieth, a like writ of exigi facias ſhall alſo be directed to the ſheriff of the latter county, and, in either caſe, a copy of ſuch writ ſhall, within four weeks after the teſte thereof, be printed in the Virginia Gazette; and the ſaid writ or writs of exigi facias being returned in due form, and being printed as aforeſaid, if the tenant ſhall not appear at the court to which

the ſame is or are returnable, judgment ſhall be entered, that the demandant recover his ſeiſin againſt the tenant. Where the praecipe quod reddat ſhall iſſue from the court of a county, city, or borough, if return thereof be made, that the tenant is not found in the bailiwick of the officer to whom it was directed, the demandant may ſue forth a new praecipe every court, for five courts following, ſucceſſively, if the tenant be not by one or other of them before ſummoned; and when the reſidence or laſt place of abode of the tenant ſhall be out of the county, city, or borough, in which the land demanded lieth, a teſtatum praecipe ſhall alſo be directed to the ſheriff, or proper officer, of the latter county, city, or borough; and in either caſe a copy of the firſt of the ſaid five praecipes ſhall, within four weeks after the teſte thereof, be printed in the Virginia Gazette, and a copy of that, and of every other of them, ſhall, within fourteen days after the teſte of each, be ſet up at the door of his court-houſe by the officer to whom it ſhall be directed, and who, by an endorſement on ſuch writ, ſhall be required by the clerk to do ſo, and return of the ſaid five writs being made, that the tenant is not found in the bailiwick or bailiwicks of the officer or officers, to whom they were directed, and that they had been ſet up as is before directed, and the firſt of them being printed as aforeſaid, if the tenant ſhall not appear at the court, to which ſome one of the ſaid writs was returnable, judgment ſhall be entered, that the demandant recover his ſeiſin againſt the tenant; but if the tenant againſt whom, without having appeared, or without having been ſummoned, any ſuch judgment ſhall be rendered, ſhall be out of Virginia, at the time of the ſuit brought, the judgment ſhall be no bar to an action commenced by him, or any claiming under him, to be reſtored to the land recovered, within a year and a day after he or they ſhall come into the country, or, remaining out of it, within ſeven years after the judgment; in which action, or in a ſeparate one, damages may alſo be recovered. If the tenant, whether ſummoned or not, ſhall appear, and afterwards make default, judgment ſhall be entered againſt him; and if, having been ſummoned, he ſhall not appear, the court ſhall make an order, that, unleſs he appear at the then next court, or ſee judgment ſhall be entered againſt him, which ſhall be entered accordingly, if a copy of that order, being delivered to him, or left at the place of his uſual abode, fifteen days, or more, before ſuch next court, and affidavit thereof being made, he ſhall not then appear. If the demandant or tenant, againſt whom any ſuch judgment ſhall be rendered, at the time of the ſuit brought, ſhall be an infant, a married woman, or a perſon of unſound mind, the judgment ſhall be no bar to another action, commenced within five years after attainment of full age, diſcoverture, or recovery of underſtanding, or within the ſame time after the death of ſuch privileged perſon.

CHAP. CVI.

A BILL *concerning partitions and joint rights and obligations.*

SECTION I. BE it enacted by the General Aſſembly, that all joint tenants or tenants, in common who now are, or hereafter ſhall be of any eſtates of inheritance in their own rights, or in the right of their wives, and all joint tenants or tenants, in common who now hold, or hereafter ſhall hold, jointly, or in common, for term of life or years, and joint tenants, or tenants, in common, where one or ſome of them have, or ſhall have eſtates for term of life or years, with others who have, or ſhall have eſtates of inheritance, or freehold in any lands, tenements or hereditaments, may be compelled to make partition between them, of ſuch lands, tenements, and hereditaments, as they now hold, or hereafter ſhall hold, as joint tenants, or tenants in common, by writs de partitione faciendâ, the forms whereof ſhall be deviſed in the General Court and adapted to the caſes aforeſaid. But no ſuch partitions between joint tenants, or tenants in common, who hold, or ſhall hold, eſtates for term of life or years, with others holding equal or greater eſtates, ſhall be prejudicial to any intitled to the reverſions or remainders after the death of the tenants for life, or after the expiration of the years. If partion be not made between joint tenants, whether they be ſuch as might have been compelled to make partition, or not, or of whatever kind the eſtates or thing holden or poſſeſſed, be the parts of thoſe who die firſt, ſhall not accrue to the ſurvivors, but ſhall deſcend or paſs by deviſe and ſhall be ſubject to debts, charges, curteſy, or dower, or tranſmiſſible to executors or adminiſtrators, and be conſidered to every other intent and purpoſe, in the ſame manner, as if ſuch deceaſed joint tenants had been tenants in common. The repreſentatives of one jointly bound with another for payment of a debt, or for performance, or forbearance of any act, or for any other thing, and dying in the lifetime of the latter, may be charged, by virtue of ſuch obligation, in the ſame manner as ſuch repreſentatives might have been charged if the obligors had been bound ſeverally as well as jointly. Partition may be demanded by one and the ſame writ, of all the ſeveral parcels of land, or other real eſtate to which the parties have title, and execution thereupon done by the ſheriff and jury, as heretofore, or by ſpecial commiſſioners to be appointed by the court, with aſſent of the parties by allotment to each party of part in each parcel, or of parts in one or more parcels, or of one or more individual parcels, with or without the addition of a part or parts of other parcels as ſhall be moſt for the intereſt of the parties in general. No plea in abatement ſhall be received in any ſuit for partition, nor ſhall it abate by the death of any tenant. After a writ of partition returned, affidavit being made by ſome credible perſon, that due notice of the writ had been given to the tenant or tenants to the action, and that a copy thereof had been left with him, her, or them, if he, ſhe, or they could be found, or if not, that ſuch notice had been given to, and copy left with the wife, ſon or daughter being of the age of twenty one years, or upwards, and at the uſual place of abode of ſuch as could not be found, or the perſon in actual poſſeſſion not being the demandant of the lands whereof partition is demanded, twenty days or more before the day of return, if the tenant or tenants ſhall not cauſe an appearance to be entered, at the time by law appointed, or within one month thereafter, the demandant having filed his, or her declaration, the court may proceed to examine his or her title, and the quantity demanded, and ſhall give judgment, by default, for ſo much as he or ſhe ſhall appear to them to have a right to, and award a writ to make partition, which being executed after eight days notice given to the perſons mentioned before, judgment final ſhall thereupon be given, which ſhall be as binding as if it had been given after an appearance; and upon a trial, unleſs any tenant within one year after the firſt judgment, or being an infant, a married woman, of unſound mind, or out of Virginia, within one year after attainment of full age, death of the huſband, recovery of underſtanding, or return to the country, reſpectively, by motion to the court, either admitting the demandant's right and purpart, ſhall ſhew inequality in the partition, in which caſe the court may award a new partition to be made, and that in preſence of all the parties if they chooſe to attend it; and the ſecond partition ſhall be as binding as if the tenant had appeared and pleaded in the firſt inſtance, or elſe ſhall ſhew ſufficient matter in bar of the partition, or that the demandant hath not title to ſo much as he or ſhe hath recovered, in which caſe the court may ſuſpend, or ſet aſide the judgment, and admit the tenant to appear and plead, and the cauſe ſhall proceed as if no judgment had been given; and if upon the trial thereof the court ſhall give the ſame ſame judgment as the firſt, it ſhall ſtand confirmed, and the perſon or perſons in whoſe behalf the motion was made, ſhall be awarded to pay coſts. The under ſheriff, when the high ſheriff cannot conveniently attend, may, in preſence of two Juſtices of the Peace, proceed to the execution of a judgment in partition, by inquiſition in due form of law, and the high

ſheriff ſhall make the ſame return as if he had acted in perſon. They who were tenants of the meſſuages, lands, tenements, and hereditaments, or any part thereof, before they were divided, ſhall hold the ſame of the landlords, to whom they ſhall be allotted by the partition in ſeveralty, under the ſame conditions, rents, covenants and reſervations, and the landlords ſhall warrant the ſeveral parts unto the tenants as they were bound to do by leaſes or grants, reſpectively: And any demandant who was tenant, in actual poſſeſſion, to the tenant, to the action for his purpart of the meſſuages, lands, tenements and hereditaments, divided by virtue of a writ of partition or any part thereof, ſhall hold it for the ſame term, and under the ſame conditions and covenants when it ſhall be allotted in ſeveralty.

CHAP. CVII.

A BILL *for the ſpeedy determination of ſuits wherein Foreigners are parties.*

SECTION I. BE it enacted by the General Aſſembly, that a ſuit, commenced in the High Court of Chancery, or General Court, by or againſt a party, who is no citizen of the commonwealth, ſhall be heard or tried in the term to which the proceſs ſhall be returned, regularly executed, or ſo ſoon afterwards as may be; and, to this end, ſubſequent proceſs to compel appearance may be returnable to any day of a term, and rules to bring the matter in diſpute to ſpeedy iſſue may be given to expire at any ſhorter time than what is preſcribed in ordinary caſes. If ſuch ſuit be commenced in the court of a county, city or borough, it may without any other reaſon, on the motion or petition of either party, be removed by writ of certiorari; and the hearing or trial thereof ſhall be accelerated by like means as if it had originated in the court to which it ſhall be removed. And the Court of Appeals, High Court of Chancery, or General Court, ſhall determine every ſuch ſuit brought before them by writ of error or appeal, with all the expedition which the neceſſary forms of their proceedings will allow.

CHAP. CVIII.

A BILL *for ſpeedy recovery of money due from certain Perſons to the Public.*

SECTION I. BE it enacted by the General Aſſembly, that when any perſon, who hath received or ſhall receive public money from the Treaſurer, for recruiting or paying the army, building, rigging, or furniſhing ſhips or veſſels of war, erecting fortifications, buying clothes, proviſion arms, or ammunition, erecting or proſecuting public manufactories, or for other public uſe, hath not applied, or ſhall not apply the ſaid money accordingly, or hath neglected, or ſhall neglect to account for and repay ſo much thereof as ſhall remain unapplied, upon a motion on behalf of the commonwealth, made to any Court of Record, notice thereof in writing having been given days, or more, to the delinquent, with a ſtate of the matter alledged againſt him, either by delivering copies of ſuch notice and allegation to him, or leaving them at the place of his uſual abode, the ſaid court may give judgment, and award execution againſt him and his ſureties, for ſo much, as a jury, to be empannelled inſtantly, unleſs good cauſe be ſhewn for deferring it, for trial of an iſſue, if he appear, and make it up, or for enquiry of damages, if he appear not, or appearing refuſe to make up ſuch iſſue, ſhall find to be due from him, on any ſuch account as aforeſaid, with damages to be aſſeſſed by the jury, and coſts. When the Attorney, proſecuting on behalf of the commonwealth, ſhall commence an action for breach of a contract, which hath been or ſhall be entered into with government, or with an agent thereof, to ſupply the army or navy with proviſion or other articles, at the emanation of the writ, he ſhall file a declaration, with an aſſignment of the breaches, which, with the writ, ſhall be delivered to the officer, to whom that is directed, and ſerved upon the defendant days, or more, before the return day; and on ſuch return day, or on the return day of the ſubſequent proceſs, in caſe the preceeding be not legally ſerved, if the defendant appear, and make up an iſſue, or if he appear not, or appearing refuſe to make up ſuch iſſue, a jury ſhall be empannelled inſtantly, unleſs good cauſe be ſhewn for deferring it, to try the iſſue, or enquire of the damages. And, in like caſes, the agents or contractors of the confederating ſtates of America may, by the like remedy, on behalf and in the name of the ſaid ſtates, recover money due to them.

CHAP. CIX.

A BILL *for recovering demands of ſmall value in a ſummary way.*

SECTION I. BE it enacted by the General Aſſembly, that any debt, or penalty, amounting to more than twenty five ſhillings, or two hundred pounds of tobacco, and not exceeding one hundred ſhillings, or eight hundred pounds of tobacco, may be demanded, by petition, to the court of a county, city, or borough. The clerk of the peace ſhall draw the petition, ſtating therein how the debt became due, or by breach of what act of General Aſſembly the penalty was incurred, and ſhall iſſue a ſummons, directed to the ſheriff, or other proper officer, commanding him to ſummon the defendant to appear and anſwer the petition; and the defendant, being ſummoned, ten days at leaſt before the return day, and being at the ſame time ſerved with a copy of the petition, together with a copy of the account, which ſhall be filed, when the debt ſhall have ariſen by account, the court, if both parties wave the trial by jury, ſhall and may hear and determine the matter in diſpute, in a ſummary way, and give ſuch judgment as ſhall appear to be juſt. And any perſon may, by petition to be ſerved and tried, in like manner, demand and recover goods detained, or the value of them, and damages for the detention, or damages for goods found by the defendant, and converted to his uſe, where the goods, with the damages, are not of greater value than one hundred ſhillings, or eight hundred pounds of tobacco. And whoſoever ſhall bring any other action than a petition, if it appear, either of his own ſhewing in the declaration, or by the verdict of the jury, that he might have brought a petition, by this act, ſhall be non-ſuit.

CHAP. CX.

A BILL *providing that actions popular, profecuted by colluſion, ſhall be no bar to thoſe which be purſued with good faith.*

SECTION I. BE it enacted by the General Aſſembly, that if any perſon hereafter ſue with good faith, any action popular, and any defendant, in the ſame action, plead any manner of recovery by action popular, in bar of the ſaid action, or that he before that time barred any plaintiff in any ſuch action popular, then the plaintiff in the action taken with good faith may aver, that the ſaid recovery in the ſaid action popular was had by covin, or elſe may aver that the ſaid plaintiff was barred in the ſaid action popular by covin: Then if after the ſaid colluſion or covin, ſo averred, be lawfully found, the plaintiff in that action ſued with good faith, ſhall have recovery according to the nature of the action and execution upon the ſame, in likewiſe and effect as though no ſuch afore had been had. Provided alway, that no plaintiff be in any wiſe received to aver any covin, in any action popular, where the point of the ſame action, or elſe the covin or colluſion ſhall have been once tried, or lawfully found with the plaintiff or againſt him, by trial of twelve men and not otherwiſe.

SECT. II. IF the profecutor of an action, or information, for the recovery of any penalty, not wholly appropriated to the uſe of ſuch proprietor, ſhall compound with the offender, or direct ſuch ſuit or information to be diſcontinued, unleſs it be by leave of the court wherein the ſaid ſuit or information ſhall be depending, ſuch profecutor ſhall be liable for ſo much of the penalty, to the commonwealth or any other, as they would have been intitled to if the defendant had been convicted.

CHAP. CXI.

A BILL *for preventing vexatious and malicious proſecutions and moderating amercements.*

SECTION I. BE it enacted by the General Aſſembly, that every action at common law, or ſuit in equity, commenced in the name of a perſon not reſiding in Virginia, unleſs he be employed abroad in the ſervice of the commonwealth, or of the United States of America, ſhall be diſmiſſed, if ſecurity be not given with the clerk of the court from whence the proceſs ſhall iſſue, or wherein it ſhall be depending, within ſixty days after notice, ſhall, at any time during ſuch non reſidence have been given to the demandant, or plaintiff, or his attorney, by ſome perſon intereſted, that ſuch ſecurity is required, for payment of the coſts and damages which may be awarded to the tenant or defendant, and alſo of the fees which will become due to the officers of the court. No information for a treſpaſs, or miſdemeanor, ſhall be filed in any court but by expreſs order of the court, entered on record, nor unleſs the party ſuppoſed to be culpable ſhall have failed to appear, and ſhew good cauſe to the contrary, having been required ſo to do by a ſummons appointing a convenient time for that purpoſe, ſerved upon him, or left at his uſual place of abode; and the name and ſur-name of the proſecutor, and the town or county, in which he ſhall reſide, with his title or profeſſion ſhall be written at the foot of the information, before it be filed, and of every bill of indictment for any treſpaſs, or miſdemeanor, before it be preſented to the grand jury; and if the defendant ſhall appear to ſhew cauſe againſt filing the information, or to anſwer the information or indictment, and the proſecutor ſhall not proceed further, or if the defendant ſhall be found not guilty by the petit jury, or a judgment ſhall be given for him he ſhall recover his coſts againſt the proſecutor with an attorney's fee, if one was employed, and the allowances to witneſſes to be taxed in the bill of coſts, and may have execution for them, as the manner is in civil caſes. And in every ſuch information or indictment, the amercement which ought to be according to the degree of the fault and ſaving to the offender his contenement ſhall be aſſeſſed by twelve honeſt and lawful men either thoſe by whom the offender ſhall have been convicted in caſe of a verdict, or thoſe who ſhall be empannelled for that ſpecial purpoſe, where judgment ſhall be given againſt him upon the argument of a demurrer or by his confeſſion or default. No eſcheator, ſheriff, coroner or other inquiſitor, ſhall hereafter have power of amercement, for default of common ſummons, ſave only the Judges of the General Court.

CHAP. CXII.

A BILL *providing a mean to help and ſpeed poor Perſons in their ſuits.*

SECTION I. WHERE it is intended that indifferent juſtice ſhall be had and adminiſtered to all the citizens of this commonwealth, as well to the poor as rich, which poor citizens be not of ability, nor power, to ſue according to the laws of this land for redreſs of injuries and wrongs to them daily done, as well concerning their perſons and their inheritance, as other cauſes; For remedy whereof, in behalf of the poor perſons of this land not able to ſue for their remedy after the courſe of the law, BE it enacted by the General Aſſembly, that every poor perſon which ſhall have cauſe of action againſt any perſon within this commonwealth, ſhall have, by the diſcretion of the court before whom he would ſue, writ or writs original, and writs of ſubpœna, according to the nature of his cauſe, nothing paying for the ſame: And that the ſaid court ſhall direct their clerk to iſſue the neceſſary proceſs, ſhall aſſign to him counſel learned in the laws, and appoint all other officers requiſite and neceſſary to be had for the ſpeed of the ſaid ſuit to be had and made, who ſhall do their duties without any reward for their counſels, help and buſineſs in the ſame.

CHAP. CXIII.

A BILL *providing that an Infant may ſue by his next friend.*

SECTION. I. IN every caſe where ſuch as be within age may ſue, it is enacted by the General Aſſembly, that their next friends ſhall be admitted to ſue for them.

CHAP. CXIV.

A BILL *declaring when the death of Perſons abſenting themſelves ſhall be preſumed.*

SECTION I. BE it enacted by the General Aſſembly, that any perſon abſenting himſelf beyond ſea, or elſewhere, for ſeven years ſucceſſively, ſhall be preſumed to be dead, in any caſe wherein his death ſhall come in queſtion, unleſs proof be made that he was alive within that time. But an eſtate recovered in any ſuch caſe, if in a ſubſequent action or ſuit the perſon preſumed to be dead ſhall be proved to be living, ſhall be reſtored to him who ſhall have been evicted; and he may moreover demand and recover the rents and profits of the eſtate, during ſuch time as he ſhall have been deprived thereof, with lawful intereſt.

CHAP. CXV.

A BILL *preſcribing a method of proteſting inland bills of exchange and allowing aſſignees of obligations to bring actions thereupon in their own names*

SECTION I. BE it enacted by the General Aſſembly, that if a bill of exchange, for the ſum of five pounds, or upwards, dated at any place in Virginia, drawn upon a perſon at any other place therein expreſſed, to be for value received, and payable at a certain number of days, weeks, or months after date, being preſented to the perſon upon whom it ſhall be drawn, ſhall not be accepted by ſubſcribing his name, with his proper hand to the acceptance, written at the foot, or on the back of the bill, or being accepted in that manner, and not otherwiſe, ſhall not be paid before the expiration of three days after it ſhall become due to the perſon to whom it ſhall be payable or his agent, or aſſigns may cauſe the bill to be proteſted by a Notary Public, or if there be no ſuch, by any other perſon in preſence of two or more credible witneſſes, for non-acceptance, in the form or to the effect following, written under a fair copy of the bill: "Know all men that I on the day of at the uſual place of abode of the above named preſented to him the bill of which the above is a copy, and which the ſaid did not accept, wherefore I the ſaid do hereby proteſt the ſaid bill. Dated at this day of ," or for non-payment after acceptance, in the ſame form or to the ſame effect, except that the words "preſented to him the bill of which the above is a copy, and which the ſaid did not accept," ſhall be left out, and inſtead of them the words, "demanded payment of the bill of which the above is a copy, and which the ſaid did not pay," be inſerted: And the drawer, ſuch proteſt being ſent to him, or notice thereof in writing being given to him, or left at the place of his uſual abode, within fourteen days thereafter, ſhall pay the money mentioned in the bill to the perſon intitled to it, with intereſt, at the rate of five in the hundred, by the year, from the day of the proteſt; and he to whom the bill ſhall be payable, neglecting to procure the proteſt to be made, or due notice thereof to be given, ſhall be liable for all coſts and damages accruing thereby.

SECT. II. IF the bill ſhall be loſt, or ſhall miſcarry, the drawer ſhall ſign and deliver another of the ſame tenor, ſufficient ſecurity being given to indemnify him againſt all perſons who may claim under the former. An action of debt may be maintained upon a note or writing, by which the perſon ſigning the ſame ſhall promiſe or oblige himſelf to pay a ſum of money or quantity of tobacco to another. Aſſignments of bonds, bills, and promiſſary notes, and other writings obligatory, for payment of money or tobacco ſhall be valid; and an aſſignee of any ſuch may thereupon maintain an action of debt, in his own name, but ſhall allow all juſt diſcounts, not only againſt himſelf, but againſt the aſſignor before notice of the aſſignment was given to the defendant.

CHAP. CXVI.

A BILL *for limitation of actions.*

SECTION I. BE it enacted by the General Aſſembly, that no perſon ſhall maintain any action or ſuit for the recovery of lands or tenements, if ſuch action or ſuit be not commenced within twenty years next after the cauſe thereof ſhall have ariſen, unleſs the plaintiff or demandant, or the perſon from whom the right is derived were, at the time ſuch cauſe of action or ſuit aroſe, under the age of twenty one years, or a married woman, or of unſound mind, or out of Virginia; in either of which caſes the right ſhall not be barred during the infancy, coverture, inſanity, or abſence, but ſhall be barred, if the action or ſuit be not commenced within five years after the determination of that privilege. No perſon ſhall make an entry into lands or tenements, but within twenty years next after the right or title of ſuch entry firſt deſcended or accrued, or within five years next after any infant, married woman, or perſon of unſound mind, or out of Virginia, to whom it ſo deſcended or accrued, ſhall attain full age, be diſcovert, recover underſtanding, come into the commonwealth, or die during ſuch privilege; nor ſhall the operation of this act be hindered by any claim or entry, made within the ſaid twenty or five years, unleſs an action upon ſuch claim or entry ſhall be commenced within one year after making thereof, and proſecuted with effect. Actions of debt, grounded upon any lending or contract without ſpecialty, and for arrearages of rent, and actions of treſpaſs quare clauſum fregit, of detinue, upon trover, of replevin for taking away goods, for account, and upon the caſe, other than ſuch accounts as concern the trade of merchandize between merchant and merchant, or their factors, or ſervants, and ſuits in the Court of Admiralty for ſeamens wages, ſhall not be commenced but within five years, nor ſhall actions of treſpaſs, or of aſſault, battery, wounding, or impriſonment, be commenced but within three years next after the cauſes of ſuch actions or ſuits reſpectively ſhall have ariſen; nor ſhall actions upon the caſe for words ſpoken be commenced, but within one year after the words ſhall have been ſpoken, or within the like time after the party injured, being under the age twenty one years, a married woman, or a perſon of unſound mind, or out of Virginia, ſhall attain full age, be diſcovert, recover underſtanding, or come into the country, or after the death of the party ſo privileged, in caſes where the actions or ſuits may be maintained by executors or adminiſtrators. Where any action or ſuit, commenced within the time before limited for it, ſhall abate for any cauſe whatſoever, the plaintiff or demandant, or any perſon claiming under him, may, by writ of journeys accounts, ſued within a year and a day after the abatement, continue the ſame action. In any of the forementioned actions, if a verdict be found for the plaintiff or demandant, and judgment thereupon be arreſted, or if judgment be given for him and afterwards reverſed, the plaintiff or demandant may commence a new action for the ſame cauſe, within one year and a day after the judgment ſhall

have been arreſted or reverſed. No judgment at common law, ſentence of the Court of Admiralty, or decree in equity, ſhall be reverſed, unleſs the writ of error, appeal, or ſuit by bill of review for reverſal, be commenced, and with effect proſecuted within five years after the judgment or decree entered of record, or ſentence regiſtered, or, if the party intitled to ſuch writ of error, appeal, or bill of review, be under the age of twenty one years, or be a married woman, or of unſound mind, or out of Virginia, at the time of entering the judgment or decree, or regiſtering the ſentence, within the ſame time after he or ſhe ſhall attain full age, be diſcovert, recover underſtanding, or come into the country. Where any perſon ſhall be bound by record or ſpecialty, as ſurety for another, unleſs it be for the diſcharge of his duty as executor, adminiſtrator, or guardian, or public officer, if no ſuit be commenced within ſeven years from the time of his becoming bound, ſuch ſurety ſhall be diſcharged; and every ſurety, already ſo bound, ſhall be diſcharged, if ſuit be not commenced within ſeven years after paſſing this act. Every proſecution, under a penal act of General Aſſembly, ſhall be commenced within two years, if the penalty be wholly appropriated to the uſe of the commmonwealth, and if appropriated to the informer alone, or to the commonwealth and informer, within one year after the penalty incurred. If any perſon, againſt whom another ſhall have cauſe of action, ſhall be out of Virginia, or ſhall abſcond, ſo that he cannot be ſerved with proceſs, the time he ſhall be ſo abſent, or abſcond, ſhall not be accounted any part of the time of limitation within this act. The four years next after the twelfth day of April, in the year one thouſand ſeven hundred and ſeventy four, ſhall not be accounted any part of the time of limitation within this act.

CHAP. CXVII.

A BILL *for granting attachments againſt the eſtates of debtors removing privately or abſconding.*

SECTION I. BE it enacted by the General Aſſembly, that when any perſon ſhall privately remove out of the county he had reſided in, or ſhall abſcond ſo that he cannot be ſerved with proceſs, a Juſtice of the Peace of the ſame county, at the requeſt of any to whom he who ſhall ſo remove or abſcond is indebted, ſhall and may, by his precept, returnable to his next county court, command the ſheriff to attach the goods of the debtor, or ſo much thereof as ſhall be ſufficient to ſatisfy the debt demanded and coſts, and alſo to ſummon any perſons, named by the creditor, to appear at the ſaid next court, before the Juſtices thereof, and render accounts of money, or other things, they owe or have in their hands or power, belonging to the debtor; the ſaid Juſtice firſt taking bond of the creditor, with ſufficient ſurety, in a penalty, double the value the debt demanded, payable to the debtor, with condition for the payment of all ſuch coſts and damages as ſhall be awarded to the debtor; which bond ſhall be at the next court filed with the clerk thereof, to be delivered to the debtor when he ſhall require it. Goods ſo attached, ſhall be replevied, if the debtor, or another for him, ſhall give bond with ſufficient ſurety, to the ſheriff, for appearance of the debtor at the ſaid next court; which bond ſhall be returned, with the attachment, or, if the debtor ſhall appear at ſuch next court, and give ſpecial bail, the court ruling him ſo to do. The creditor, at the return of the attachment, ſhall file his declaration, and thereupon like proceedings ſhall be in the cauſe, and, if bond be given for appearance of the defendant, the ſheriff or ſurety ſhall be ſubject to like judgment, and be intitled to like relief, as if the defendant had been arreſted in an ordinary action. Every garniſhee may be compelled to render to the court an account, upon oath, which account ſhall be entered of record, of all money or goods from him due, or in his hands or power, belonging to the defendant, at the time ſuch garniſhee was ſummoned, and to deliver ſuch goods to the ſheriff. If the goods attached be not replevied, and judgment be given for the plaintiff, the ſaid goods, as well as thoſe delivered by the garniſhees, ſhall be ſold by the ſheriff, in the ſame manner as goods taken by virtue of a writ of fieri facias, and the proceeds of the ſale ſhall be applied towards ſatisfying the judgment; and if they be not ſufficient, the court ſhall order the money or goods due from the garniſhees, or ſo much thereof as ſhall be ſufficient, to be applied to the ſame purpoſe, which ſhall acquit the garniſhees againſt the defendant of what they ſhall pay, by virtue of ſuch order.

CHAP. CXVIII.

A BILL *concerning inqueſts.*

SECTION I. BE it enacted by the General Aſſembly, that the ſheriff of that county in which the General Court ſhall ſit, ſhall, before every term, ſummon twenty four good and lawful men, being freeholders in the commonwealth, which he ſhall have power to do, not only in his own county, but in all places out of it, within the diſtance of thirty miles from that in which the court ſhall be held, to appear before the Judges of the ſaid court, on the firſt day of the ſaid term; and the men ſo ſummoned, or any ſixteen of them who appear, ſhall be a grand jury for the body of the commonwealth, and ſhall have power to enquire of and preſent all treaſons, felonies, and miſdemeanors, and other offences whereof that court hath juriſdiction, ſo that a preſentment or indictment by them of an offence committed in any county, ſhall be as legal as a preſentment or indictment by a grand jury of that particular county could have been. Before each ſeſſion to be held for every county in the months of February, May, Auguſt and November, the ſheriff ſhall ſummon twenty four good and lawful men of his county, being freeholdrrs therein, and not being owners of, or intereſted in water-mills, ſurveyors of highways, ordinary keepers, or conſtables, to appear before the Juſtices of the ſaid county at ſuch ſeſſions, and the men ſo ſummoned, or thoſe who appear, if more than eight make default, together with ſo many others of the by-ſtanders qualified in like manner, as will make the number ſixteen, ſhall be a grand jury for the body of that county, and ſhall have power to enquire of and preſent all offences therein committed, and cognizable by the ſaid county court. A grand jury ſhall make no preſentment of their own knowledge, unleſs information of the fact be given by two or more of themſelves; and when they make a preſentment upon the information of others, they ſhall write the names of the informants under the preſentment. If at any time between the ſwearing and diſcharging a grand jury any of them fail to attend the court when required, the others ſhall proceed to do the buſineſs if the number be ſufficient, or if not, the court ſhall command the ſheriff to name ſo many of the perſons then preſent, and qualified to officiate, as with thoſe attending ſhall make up ſixteen, which perſons ſo to be named, having heard the oath of the foreman read, and being ſworn as the manner is, ſhall, to all intents and purpoſes, afterwards be deemed grand jury men, inſtead of the defaulters; and every one of ſuch defaulters ſhall be fined ſo much money as the court ſhall judge he ought to forfeit, not exceeding one hundred pounds, unleſs good cauſe be ſhewn to the contrary. For trial of iſſues in fact, before the Court of Appeals, High Court of Chancery, General Court, Court of Admiralty, and court of every county, city, or borough,

the ſheriff or other proper officers attending ſuch court, ſhall, when ſuch Court of Appeals ſhall ſo direct, and every day during the term or ſeſſion of ſuch other court, ſummon a ſufficient number of good and lawful men, qualified, and not privileged in manner herein after mentioned, as well of the by-ſtanders, as of thoſe he can meet with not more than the diſtance of half a mile from the court-houſe, to appear before the ſaid court that day and ſerve as jurors, and juries ſhall be formed, as they ſhall be required, of the men ſo ſummoned and appearing to be called in the order their names ſhall ſtand on the panel, except in an extraordinary caſe directed by the court to be tried by a ſpecial jury, and ſuch juries ſhall be deemed lawful juries, although they come not from the counties in which the venires ſhall be laid in the indictments, informations and declarations. Men aged above threeſcore years, or ſuch as be continually languiſhing or ſick ſhall not be put in juries, nor ſhall any without his conſent be put in juries in the court of a county, city, or borough, who be not dwelling in ſuch county, city, or borough, nor ſhall any be a juror on trial of an indictment of treaſon, felony, or miſdemeanor, or in an action wherein the title or boundaries of land, or any franchiſe ſhall be in queſtion, who is not a freeholder, nor in any other cauſe in the Court of Appeals, High Court of Chancery, General Court, or Court of Admiralty, unleſs he be poſſeſſed of a viſible eſtate of the value of one hundred pounds, or in the court of a county, city, or borough, unleſs he be poſſeſſed of a viſible eſtate of the value of fifty pounds. But in caſe that any indictment be made of felony or of treſpaſs, and thereupon to try the truth thereof, an inqueſt or proof is to be taken, if one party or the other be ſtrangers it ſhall be tried by ſtrangers; and if the one party be a citizen of the commonwealth and the other a ſtranger, one half of the inqueſt, or the proof, ſhall be of citizens and the other half of ſtrangers; and in all manner of inqueſts and proofs which be to be taken, or made amongſt ſtrangers and citizens, the one half of the inqueſt or proof ſhall be citizens, and the other half ſtrangers, if ſo many ſtrangers and foreigners be in the town or place where ſuch inqueſt or proof is to be taken that be not parties, nor with the parties in the contracts, pleas or other quarrels, whereof ſuch inqueſt or proof ought to be taken; and if there be not ſo many ſtrangers, then ſhall there be put in ſuch inqueſts or proofs as many ſtrangers as ſhall be found in the ſame towns or places, which be not thereto parties, nor with the parties as aforeſaid, and the remnant of citizens which be good men, and not ſuſpicious to the one party or the other, notwithſtanding that the ſtrangers be not freeholders, nor poſſeſſed of viſible eſtates of the value of one hundred pounds or fifty pounds each; but if there be no ſtrangers in the town or place where ſuch inqueſt or proof is to be taken, then ſhall there be put in ſuch inqueſt or proof all citizens. But no exception ſhall be made to a juror after the jury ſhall have been ſworn. On inqueſts in the country, ſheriffs and bailiffs ſhall put ſuch as be freeholders of the county, next neighbours, moſt ſufficient, and leaſt ſuſpicious, without denomination before made by any perſon of the names which by them ſhould be empannelled on pain of being grievouſly amerced to the commonwealth, and jurors put on any of ſuch inqueſts ſhall take nothing (on pain of being diſcharged from the inqueſt, and immediately impriſoned by the ſheriff) either of meat or drink, from any party, after they ſhall be ſummoned, and before the inqueſt ſealed, nor from any other perſon whatever after the time of coming to the place appointed for their meeting and before the inqueſt ſealed, or before they ſhall be adjourned, if the buſineſs cannot be completed in one day, in which caſe they may be adjourned by the ſheriff, from day to day until ſuch completion. Every freeholder, ſummoned to ſerve on any jury, failing to appear, ſhall be fined four hundred pounds of tobacco to the uſe of the commonwealth, unleſs he ſhall ſhew good cauſe to the contrary, being ſerved with a rule ſo to do. And every ſheriff failing to do his duty in ſummoning a grand jury, ſhall be fined ſuch ſum of money as the court ſhall judge proper, not exceeding fifty pounds of current money, to the ſame uſe. To every juror ſummoned by virtue of a writ of venire facias, for trial of a priſoner, attending accordingly, the ſame ſame ſhall be paid by the public as is paid to witneſſes for travelling to and from the General Court, and attending there, with their ferriages. No writ of attaint ſhall be proſecuted againſt a jury by pretence of a falſe verdict: for miſbehavior of a jury, as well as for other good cauſe the Judges who ſit at the trial, upon a motion made the ſame term or ſeſſion, may, at their diſcretion, upon ſuch terms as to them ſhall ſeem equitable, ſet the verdict aſide, and order a new trial in any caſe, except an indictment or information wherein the priſoner or defendant ſhall be acquitted of treaſon, felony or miſdemeanor. If any jurors or juries, or other inqueſts, take any thing by themſelves, or others, to give their verdict and thereof be convicted, ſuch jurors ſhall not thereafter be put in aſſizes, juries or inqueſts, and ſhall pay each ten times ſo much as he ſhall have taken, whereof he that will ſue ſhall have the one half, and the commonwealth the other half. And all the embracers that bring or procure ſuch inqueſts in the country, to take gain or profit, ſhall be puniſhed in the ſame manner and form as the jurors, and if the juror or embracer ſo convicted, hath not whereof to make ſatisfaction, in the manner aforeſaid, he ſhall have impriſonment of one year. Alſo if any juror, after he ſhall have been ſworn in any cauſe and before he be diſcharged ſhall ſuffer himſelf to be treated with meat or drink, by either party, or laboured with to give a verdict in favour of either party, otherwiſe than by the pleading and diſcuſſing of the cauſe in open court, he ſhall be puniſhed by amercement and impriſonment at the diſcretion of a jury. Grand juries may be adjourned from day to day during the term or ſeſſion, until they ſhall have finiſhed their buſineſs. A petit jury in any caſe, unleſs it be an indictment of treaſon or felony, if they be not agreed on their verdict, at the time the court ſhall adjourn, on the laſt day of a term or ſeſſion, ſhall be diſcharged of courſe, and a new trial ſhall be thereupon. In every caſe where by law the court is or ſhall be impowered to give judgment, on a motion againſt any ſheriff, collector, or receiver of public or private money or tobacco, purchaſers upon execution, or diſtreſs for rent, on bonds for priſon rules, or to replevy eſtates taken in execution, or any other occaſion, if the party againſt whom the motion is made, ſhall conteſt the demand, a jury, if he deſire one for trial of the matter in controverſy upon a ſhort iſſue made up for that purpoſe, ſhall be empannelled and ſworn immediately, or if good cauſe be ſhewn by the plaintiff to poſtpone the trial at the next term or ſeſſion.

CHAP. CXIX.

A BILL *permitting thoſe who will not take oaths to be otherwiſe qualified.*

SECTION I. BE it enacted by the General Aſſembly, that any perſon refuſing to take an oath, and declaring religious ſcruples to be the true and only reaſon of ſuch refuſal, if he will uſe the ſolemnity and ceremony, and repeat the formulary, obſerved on ſimilar occaſions, by thoſe of the church, or religious ſociety he profeſſeth himſelf to be a member of, or to join in communion with, ſhall thereupon be deemed as competent a witneſs, or to be as duly qualified to execute an office, or perform any other act, to the ſanction whereof an oath is or ſhall be required by law, and ſhall be ſubject to the ſame rules, derive the ſame advantages, or incur the ſame penalties or forfeitures, as if he had been ſworn. In preſentments, indictments, inquiſitions, verdicts, examinations, or other forms, the words, "upon their oath," or "ſworn," may be left out, and inſtead of them, "in ſolemn form," or "charged," whichever may be adapted to the caſe, may be inſerted; but if the ancient form be adhered to, it ſhall not be adjudged error.

CHAP. CXX.

A BILL for regulating the commencement of the year, and the computation of time.

SECTION I. WHEREAS although the ſupputation of the year of our Lord, according to which the year beginneth on the twenty-fifth day of March, hath, ſince the year one thouſand ſeven hundred and fifty-one, been diſcontinued by the people of this comwonwealth, yet the ſupputation uſed inſtead of it, conformable with the uſage of all nations with whom they have commerce, hath not been adopted by a proper Legiſlative ſanction; and whereas the calender, uſed in this commonwealth before the year one thouſand ſeven hundred and fifty-two, hath been diſcovered to be erroneous, inſomuch that the vernal or ſpring equinox, which, at the time of the general council of Nice, in the year of our Lord three hundred and twenty-five, happened on or about the twenty-firſt day of March, would happen, in this eighteenth century, on the ninth or tenth day of the ſame month, and this error, if not remedied, would encreaſe ſo as, in proceſs of time, to occaſion the ſeveral equinoxes and ſolſtices to fall at very different times in the civil year from what they formerly did; which might tend to miſlead people, ignorant of the alteration; and whereas a method of correcting the calender, in ſuch a manner, as that the equinoxes and ſolſtices fall nearly on the ſame nominal days, on which the ſame happened at the time of the ſaid general council, hath been approved and uſed in this commonwealth, ſince the year one thouſand ſeven hundred and fifty-one, but hath not been eſtabliſhed by conſtitutional authority; BE it therefore enacted by the General Aſſembly, that the firſt day of January, in every year, which hath happened ſince the year one thouſand ſeven hundred and fifty-one, as well as in every year which ſhall happen in time to come, ſhall be reckoned, taken, deemed, and accounted, to be the firſt day of the year; and that each new year ſhall, accordingly, commence and begin to be reckoned, from the firſt day of every ſuch month of January, next preceeding the twenty-fifth day of March, on which ſuch year would according to the former ſupputation, have begun or commenced; and that the natural day, which next immediately followed the ſecond day of September, in the year one thouſand ſeven hundred and fifty-two, ſhall be, as it hitherto hath been called, reckoned, and accounted, to be the fourteenth day of September, the eleven intermediate days of the calender, then in uſe, being omitted for that time only; and that the ſeveral natural days, which followed, and ſucceeded next after the ſaid fourteenth day of September, ſhall be, as they hitherto have been, reſpectively called, reckoned, and numbered, forwards, in numerical order, from the ſaid fourteenth day of September, according to the order and ſucceſſion of days uſed in the ſaid calender. And for the continuing and preſerving the calender, or method of reckoning and computing the days of the year, in the ſame regular courſe, as near as may be, in all times coming; BE it further enacted, that the ſeveral years of our Lord one thouſand eight hundred, one thouſand nine hundred, two thouſand one hundred, two thouſand two hundred, two thouſand three hundred, and any other hundredth years of our Lord, which ſhall happen in time to come, except only every fourth hundred year of our Lord, whereof the year of our Lord two thouſand ſhall be the firſt, ſhall not be eſteemed or taken to be biſſextile or leap years, but ſhall be taken to be common years, conſiſting of three hundred and ſixty-five days, and no more; and that the years of our Lord two thouſand, two thouſand four hundred, two thouſand eight hundred, and every other fourth hundred year of our Lord, from the ſaid year of our Lord two thouſand, incluſive, and alſo all other years of our Lord, which, by the former ſupputation, were eſteemed to be biſſextile or leap years, ſhall, for the future, and in all times to come, be eſteemed and taken to be biſſextile or leap years, conſiſting of three hundred and ſixty-ſix days, in the ſame ſort and manner as is now uſed, with reſpect to every fourth year of our Lord. The day increaſing in the leap year ſhall be taken and reckoned of the ſame month wherein it groweth; and that day and the next going before ſhall be accounted for one day. In all computations of time, by the month, calender months ſhall be the meaſure of computation, unleſs in caſes where the agreement of the parties, or ſome particular act of Aſſembly, ſhall have ſpecially determined otherwiſe.

CHAP. CXXI.

A BILL allowing a bill of exceptions to be ſealed.

SECTION I. WHEN one impleaded before any court, and in any cauſe, where appeal lies to a higher court, doth alledge an exception praying that the Juſtices will allow it, if they will not allow it and he that alledged the exception do write the ſame exception, and require that the Juſtices will put their ſeals in teſtimony thereof, the Juſtices or the greater part of them preſent ſhall ſo do; and if ſuch higher court upon complaint made of the ſaid Juſtices, cauſe the record to come before them, and the ſame exception be not found in the roll, and the plaintiff ſhew the exception written, with the ſeals of the Juſtices put to, the Juſtices ſhall be commanded that they appear at a certain day, either to confeſs or deny their ſeals. And if the Juſtices cannot deny their ſeals they ſhall proceed to judgment according to the ſame exception, as it ought to be allowed or diſallowed.

CHAP. CXXII.

A BILL for enforcing performance of awards made by rule of court.

SECTION I. BE it enacted by the General Aſſembly, that by conſent of parties, either perſonally declared by them, or ſignified in writing ſworn to be their act, by two ſubſcribing witneſſes, before a Court of Record, any ſuit between thoſe parties, in their own rights, may, after iſſue joined, by rule of ſuch court, be ſummitted to arbitrators, who ſhall return their award to the ſame court, to be there entered of record. And, ſuch award being returned, unleſs oath be made of ſome miſbehaviour in the arbitrators, or that the award was procured by undue means; or unleſs the award, upon the face of it, appear contrary to law, the court, proof being made that either of the parties had refuſed or neglected to perform the award, may order proceſs to iſſue againſt him for contemning the rule.

CHAP. CXXIII.

A BILL concerning executions.

SECTION I. BE it enacted by the General Aſſembly, that every action of account render, debt, detinue, deceit, conſpiracy, treſpaſs with force and arms, or treſpaſs upon the caſe, ſhall be commenced by ſuing forth the writ called capias ad reſpondendum, without an original writ or other precept before. Lands, tenements, and hereditaments ſhall

and may by virtue of writs of fieri facias, be taken and ſold in ſatisfaction of judgments. The ſame actions which will lie againſt executors or adminiſtrators, may be brought jointly againſt them and the heirs or deviſees of the dead perſon or both, and ſhall not be delayed for the nonage of any of the parties. The clerk from whoſe office a writ of fieri facias ſhall iſſue upon a judgment againſt the party convict, or againſt his executors or adminiſtrators, and his heirs or deviſees, ſhall, after the words, " we command you that of the," leave out the words, " goods and chattels," immediately following them, and inſtead of the latter inſert the word " eſtate," and by virtue of ſuch writ the officer to whom it ſhall be directed ſhall, and may proceed in the manner herein after preſcribed, to make the debt or damages and coſts recovered, firſt of the goods and chattels, excluſive of ſlaves, and if there be no ſuch goods and chattels, or not ſufficient found in his bailiwick, then of the ſlaves, and if there be none or not ſufficient found in his bailiwick, laſtly of the lands, tenements and hereditaments in poſſeſſion, reverſion or remainder, or ſo much thereof, in one entire parcel, as ſhall be ſufficient, and ſuch part as the owner ſhall direct if he think proper. Land deſcended or deviſed, if before ſuit brought or proceſs ſued out againſt the heir or deviſee it ſhall have been by him aliened and conveyed to a purchaſer with good faith for valuable conſideration actually paid, ſhall not be taken in execution by a writ of fieri facias, but the heir or deviſee ſhall be accountable for the true value thereof, as if it were his proper debt to the creditors of the anceſtor or teſtator; and if the heir or deviſee in an action againſt him, ſhall plead nothing by deſcent or by deviſe at the time of the writ brought, and the plaintiff in his replication ſhall alledge the contrary, and the iſſue thereupon joined be found for the plaintiff, and the land appears to have been aliened as aforeſaid, the jury ſhall enquire of the value thereof, and thereupon judgment ſhall be given and execution ſhall be awarded for ſuch value: but if judgment be given againſt the heir or deviſee by confeſſion of the action, without confeſſing the land deſcended, or upon demurrer, or nihil dicit, it ſhall be for the debt or damages without enquiry of the land deſcended or deviſed. If a writ of capias ad ſatisfaciendum be not returned and executed, or if a writ of fieri facias appear by the return, either not to have been executed, or to have been partially executed, the clerk at the requeſt of the party ſuing it out, and if through his means it ſhall not have been executed, at his coſts may iſſue another writ of the ſame or a different kind of execution, endorſing thereon the amount of any payment which ſhall have been made, that the officer may levy or receive no more than what ſhall then remain due, and the clerk of a county court may, in any caſe, iſſue judicial proceſs to the ſheriff or other officer of any other county.

SECT. II. EVERY writ of execution ſhall bear date at leaſt fifteen days before the return day thereof, and if it iſſue from the court of a county, city, or borough, ſhall be returnable to ſome one of the three ſeſſions of court next after the date. If a defendant ſhall die charged in execution, the plaintiff or his executors or adminiſtrators may proceed to ſubject the eſtate of ſuch defendant to execution.

SECT. III. If a ſheriff or other officer to whom any writ of fieri facias ſhall be directed and delivered, take and ſell a ſlave, where ſufficient other chattels ſhall be ſhewn to him, to ſatisfy the debt, damages, or coſts, or ſhall take and ſell lands, where ſlaves or other chattels ſhall be ſo ſhewn, or ſhall make any unreaſonable ſeizures, the officer ſo offending ſhall be liable to the action of the party grieved for all damages occaſioned thereby, and coſts.

SECT. IV. EVERY writ of fieri facias ſhall bind the property of the lands, tenements, goods and chattels from the time it ſhall be delivered to the officer, who ſhall, without fee, endorſe on every ſuch writ the day, and time of day when he received the ſame.

SECT. V. If the owner of goods and chattels, taken in execution by virtue of a writ of fieri facias, ſhall not pay the debt or damages, and coſts, within five days from the ſeizure, the ſheriff or officer on the Sunday next after the expiration of that time, ſhall give public notice, that at the place appointed in ſuch notice, the ſaid goods and chattels will be expoſed to ſale by auction on the Wedneſday following, cauſing advertiſements for that purpoſe to be ſet up at all the churches in his county, not more than ten miles diſtant from ſuch place.

SECT. VI. IF the owner of the goods ſo taken, ſhall give ſufficient ſurety, or ſureties, to the ſheriff or officer, to have them forthcoming at the day of ſale, the ſheriff or officer ſhall ſuffer the goods to remain with the owner, at his or her riſk, until the day of ſale.

SECT. VII. IF the owner ſhall, at or before the time of ſale, give or tender, to the ſheriff or officer, bond with ſufficient ſurety or ſureties, for payment of the debt, damages, or coſts, with intereſt for the ſame, to the creditor, at the end of three months, the ſheriff or officer ſhall reſtore the eſtate ſeized.

SECT. VIII. If no ſuch bond be offered before or at the time of ſale, the ſheriff or officer ſhall proceed to ſell ſo much as will ſatisfy the demand of the creditor, for ready money or tobacco, as the demand ſhall be and his fees, and reſtore the ſurplus, if any, to the owner; but if the eſtate cannot be ſold for three-fourths of its value, in the judgment of the officer, he may ſell the ſame upon three months credit, taking bond with ſufficient ſurety or ſureties, for payment of money or tobacco, with intereſt to the creditor at the end of three months.

SECT. IX. WHEN the goods and chattels, taken in execution by virtue of a fieri facias, ſhall not be ſufficient to ſatisfy the debt, damages, and coſts, and the owner ſhall not have given ſuch bond with ſecurity as aforeſaid, for payment thereof, the ſheriff or other officer ſhall, after the expiration of five days from the ſeizure, give public notice, in the manner before directed, both at the churches, and alſo at the court-houſe of his county, on the next court-day, and ſhall moreover give notice to the owner, if he be in the county, or otherwiſe to his agent, if any ſuch be known, that at ſome time appointed in the notice, not leſs than ninety nor more than ninety-ſix days from the end of the ſaid five days, the ſaid lands, tenements, and hereditaments, will be expoſed to ſale by auction, on the premiſes, or at ſuch other place, in the ſame county, as the owner ſhall, by writing under his hand delivered to the officer, direct.

SECT. X. IF the party againſt whom a judgment ſhall be entered, have ſeveral parcels of land which lie in one and the ſame county, he or his agent, may, by writing, under his hand, at any time before the day of ſale, require the ſheriff or officer, to whom a writ of fieri facias upon the judgment ſhall be directed, to make the debt or damages, and coſts, of ſuch of the ſaid parcels as the owner or his agent ſhall think proper, and if the parcels lie in different counties, the clerk ſhall and may, at the like requeſt in writing, direct the fieri facias to the ſheriff or officer of any county, which the party or his agent (making oath or ſolemn affirmation that he hath land there) ſhall particularly mention at any time before the writ ſhall be delivered to the officer. And if the debt or damages, and coſts, be made of any other parcel of land, or of land lying in any other county than that mentioned in ſuch written requiſition, the ſale of ſuch other parcel, or of the land in ſuch other county ſhall be void.

SECT. XI. IF the owner before or at the day of ſale, ſhall not give or tender bond, with ſufficient ſurety or ſureties, to the ſheriff or other officer, for payment of the money and tobacco, due at the end of three months

thence next following, the ſheriff or officer ſhall procee dto ſell the ſaid lands, tenements, and hereditaments, for ſuch eſtate and intereſt as the party convict ſhall have therein, or ſo much thereof as will be ſufficient, laid off in one entire parcel, if it may be done, in ſuch place and manner, as he or his agent, if he think proper, ſhall direct, for ready money or tobacco, as the demand ſhall be, and the fees; but if the eſtate cannot be ſold for three fourth parts of the value thereof, in the opinion of the officer, he ſhall ſell the ſame upon three months credit, taking bond of the purchaſers, with ſufficient ſurety or ſureties, for payment to the creditor.

SECT. XII. NO ſheriff, under ſheriff, or other officer, ſhall buy or bid for any goods, or chattels, lands, tenements, or hereditaments, which he or his principal, or deputy, ſhall expoſe to ſale by virtue of any fieri facias; and the property of any ſuch thing ſo bought by him, or by any other to his uſe, ſhall not be thereby changed, but the ſame may be recovered by the former owner, or be made ſubject to the demands of any of his creditors, unleſs it ſhall, before ſuit brought for that purpoſe, have been ſold with good faith and for valuable conſideration to one who had notice that it had been bought in manner aforeſaid.

SECT. XIII. IN all ſales of land by virtue of an execution, the ſheriff or officer ſhall convey the ſame to the purchaſer, at his coſts, by deed in writing, indented, ſealed and recorded as the laws direct for other conveyances of lands, which deeds ſhall recite the execution, purchaſe and conſideration, and ſhall be effectual for paſſing to the purchaſer all the eſtate and intereſt which the debtor had and might lawfully part with in the lands. And in all ſales of ſlaves, upon any execution, the ſheriff or officer ſhall certify on the writ the names of the ſlaves and of the purchaſers.

SECT. XIV. IN every bond to be taken purſuant to this act, for payment of the debt, damages or coſts, by the debtor, or by the purchaſers on the ſale upon credit, it ſhall be mentioned on what occaſion the ſame were taken, and ſuch bond ſhall be by the ſheriff or officer immediately returned, with the execution, to the clerk's office from whence it iſſued, there to be ſafely kept. And if the money or tobacco be not paid, at the the time mentioned in the condition, the court, on motion of the creditor, his executors or adminiſtrators, ſhall and may give judgment againſt the obligors, or the executors or adminiſtrators, and heirs or deviſees of the principal obligor, for the penalty of their bond, to be diſcharged by the payment of principal, intereſt and coſts, and thereon award execution; provided ten days previous notice of ſuch motion be given to thoſe againſt whom judgment is entered. And on ſuch new execution the clerk ſhal endorſe that no ſecurity is to be taken, and the ſheriff or officer ſhall proceed to levy the ſame immediately, firſt ſelling the eſtate of the principal obligor if any can be found, but not taking ſecurity for payment at a future day, or ſelling upon credit as aforeſaid.

SECT. XV. ALSO when judgment ſhall be entered againgſt a ſheriff, or other collector for taxes, public, county or pariſh levies, or officers fees put into his hands to collect, the clerk ſhall endorſe on the execution iſſued thereupon that no ſecurity is to be taken, and the ſheriff or officer ſhall proceed to levy the ſame immediately, not taking ſecurity for payment at a future day, or ſelling upon credit as aforeſaid.

SECT. XVI. IF bond and ſecurity be given for the forthcoming of goods taken in execution as before directed, and the debtor, at the time of the ſale, ſhall neither deliver up the ſame to the ſheriff or officer, nor pay or give ſecurity for the debt, damages and coſts as aforeſaid, the ſheriff or officer ſhall endorſe the truth of the caſe upon the execution, and return the bond therewith to the clerk's office; and thereupon it ſhall be lawful for the court, on the motion of the creditor, his executors or adminiſtrators, to give judgment for the penalty of the bond, to be diſcharged by the payment of the principal, mentioned in the former execution, with intereſt thereon from the date of the bond, and coſts, againſt the obligors, and thereon to award execution, provided that ten days previous notice of ſuch motion be given to thoſe againſt whom judgment ſhall be entered. And on ſuch new execution the clerk ſhall endorſe that no ſecurity of any kind is to be taken; and the ſheriff or officer ſhall proceed to levy the ſame, and keep the eſtate in his hands until the day of ſale, and then ſhall ſell ſufficient thereof to ſatisfy the contents of the execution, not taking any ſecurity for the forthcoming of the eſtate, or for payment at a future day, or ſelling upon credit as before-mentioned.

SECT. XVII. IF the ſheriff or other officer ſhall levy an execution, writ of attachment, or other diſtreſs upon horſes or other live ſtock, and the ſame ſhall not be immediately replevied, or ſecurity given for the forthcoming thereof, the officer ſhall provide ſuſtenance for the ſupport of ſuch ſtock, if he ſhall remove them, until ſold or reſtored to the owner, the expence whereof, to be ſettled by the court on the return of the proceſs, ſhall be allowed to ſuch officer out of the ſales, or otherwiſe by the debtor, or in caſes of attachment, if the plaintiff be caſt therein, then by ſuch plaintiff.

SECT. XVIII. WHEN any final decree ſhall be entered for the payment of money or tobacco, or a final order in any court for ſuch payment, the clerk may iſſue a fieri facias thereupon, againſt the eſtate of the debtor, which ſhall be executed and returned in like manner, and under the ſame rules and regulations, as are herein before directed in the caſe of executions upon judgments for debt obtained in the court of law. If any perſon in cuſtody of a ſheriff or other officer, for not performing a decree of any Court of Chancery, whereby money or tobacco is ordered or decreed to be paid, by the perſon ſo in cuſtody, to another, ſhall eſcape from ſuch ſheriff or other officer, he to whom the money or tobacco was ordered or decreed to be paid, or his executors or adminiſtrators, may recover the ſaid money or tobacco, by an action of debt againſt ſuch ſheriff or other officer, with coſts, in the ſame manner as if the perſon ſo eſcaped had been in cuſtody upon an execution at common law.

SECT. XIX IF the ſheriff or other officer ſhall return upon any writ of fieri facias, or venditioni exponas, enquiry, fieri facias in detinue, or withernam in replevin, that he hath levied the debt, damages or coſts therein mentioned, or any part thereof, and ſhall not immediately pay the ſame to the party intitled thereto or his agent, it ſhall be lawful for the court from whence ſuch writ iſſued, upon the motion of ſuch party, his executors or adminiſtrators, to give judgment againſt ſuch ſheriff or officer, and his ſecurities, his or their executors or adminiſtrators, for the amount of the money and tobacco mentioned in ſuch writ, with intereſt thereon from the return-day of the writ, and coſts, and thereon to award execution, provided that ten days previous notice of ſuch motion be given to thoſe againſt whom judgment is ſo entered. And upon ſuch new execution the clerk ſhall endorſe that no ſecurity of any kind is to be taken, and the ſheriff or officer to whom the ſame is directed, ſhall proceed thereupon as is herein before mentioned in other caſes of the like endorſement.

SECT. XX. WHERE a writ of execution ſhall be delivered to the ſheriff or officer of another county than that in which the creditor reſides, the creditor ſhall name ſome perſon reſident in the county wherein the execution is to be levied, to be his agent, for receiving the money or tobacco due thereon, and for giving to or receiving from the ſheriff or officer any notices which may be neceſſary relative to the execution; and the creditor ſhall avail himſelf of, and be bound by what the agent ſhall do therein, in the ſame manner as if it had been done by himſelf in perſon. And if the creditor ſhall fail to appoint ſuch agent, no judgment ſhall be entered againſt the ſheriff or officer for the money or tobacco mentioned in the execution, unleſs it be proved that a demand thereof

was made of ſuch ſheriff or officer in his county, by the creditor or ſome other perſon having a written order from him.

SECT XXI. IF a ſheriff or officer ſhall fail to return any writ of execution to him delivered, to the office from whence it iſſued, on or before the return day thereof, the court from whence the execution iſſued ſhall and may, on the motion of the creditor, give judgment againſt ſuch ſheriff or officer for any ſum not exceeding ten pounds, and coſts, to the uſe of the creditor, and thereon award execution, provided ten days previous notice be given of ſuch motion, and may continue to fine ſuch ſheriff or officer, in like manner, from time to time, ſo often as new notice ſhall be given, until the execution is returned, or the creditor ſatisfied his debt, damages, and all coſts. And ſuch ſheriff or officer ſhall moreover be liable to the action of the creditor for all damages ſuſtained by his not returning ſuch execution in due time.

SECT. XXII. AT the time of delivering a capias ad ſatisfaciendum to the ſheriff or officer, the creditor if required ſhall give ſecurity to pay the priſon fees, which if there be more creditors than one who ſue out ſuch executions ſhall be paid by them in proportion to their debts.

SECT. XXIII. IF any perſon committed in execution ſhall enter into bond, with ſufficient ſureties, in the penalty of double the ſum due, with condition that he will not depart out of the priſon rules or bounds, the ſheriff or officer ſhall allow the priſoner to go at large any where within ſuch bounds. And if after ſuch bond given, the debtor ſhall eſcape out of the bounds, it ſhall be lawful for the court of the county, on the motion of any creditor, or his executors or adminiſtrators, to give judgment againſt the obligors, their ſeveral executors or adminiſtrators, for the penalty of the bond, to be diſcharged by the payment of the principal ſums mentioned in the execution, with intereſt from the date of the bond, and coſts, and thereupon to award execution, provided ten days previous notice be given of ſuch motion, to thoſe againſt whom judgment is entered. And every execution upon ſuch judgment ſhall be iſſued againſt the eſtate of the defendant, and levied as herein before is directed; but the clerk ſhall endorſe thereon that no ſecurity of any kind is to be taken, and ſuch endorſement ſhall be obſerved by the ſheriff or officer to whom the ſame is directed in manner herein before mentioned.

SECT. XXIV. ANY perſon who now is or hereafter ſhall be committed to jail in execution upon a judgment, ſhall, on his requeſt, be carried by the ſheriff or jailer, either before a Judge of the General Court, or any two Juſtices of the Peace of the county wherein he ſhall be impriſoned, if it be a judgment of the General Court, or before ſuch two Juſtices if it be a judgment of the court of a county, city, or borough; and the priſoner may deliver to ſuch Judge or Juſtices, a ſchedule of his eſtate and take the following oath, or being one of the people called quakers or menoniſts affirm, to the like effect, to wit: "I A. B. do in the preſence "of Almighty God, ſolemnly ſwear, proteſs and declare, that the ſchedule now delivered, and by me ſub-"ſcribed, doth contain to the beſt of my knowledge and remembrance a full true, and juſt account and diſ-"covery of all the eſtate, goods and effects to me any way belonging, and ſuch debts as are to me owing, or "to any perſon in truſt for me, and of all ſecurities and contracts whereby any money may hereafter become "payable, or any benefit or advantage accrue to me or to my uſe, or to any other perſon in truſt for me; and that "I or any other perſon in truſt for me, have not any other lands, money, ſtock, or other eſtate real or "perſonal, in poſſeſſion, reverſion, or remainder, wherewith I could ſatisfy the debt, damages or coſts, "for which I am charged in execution, or any part thereof. And that I have not directly or indirectly ſold, "leſſened, or otherwiſe diſpoſed of in truſt, or concealed all, or any part of my lands, ſlaves, money, goods, "debts, or effects, whereby to ſecure the ſame, to receive or expect any profit or advantage thereof, or to de-"fraud or deceive any creditor or creditors to whom I am indebted. So help me God." And thereupon ſuch Judge or Juſtices ſhall order the priſoner to be diſcharged from his impriſonment, but the creditor or creditors may, at any time afterwards, ſue out a ſcire facias to have execution of any eſtate the debtor ſhall thereafter acquire or be poſſeſſed of.

SECT XXV. THE ſaid ſchedule ſhall be delivered to, and remain with the clerk of the court from which the execution iſſued.

SECT. XXVI ALL the eſtate contained in ſuch ſchedule, for ſuch uſe and intereſt as the debtor hath therein, and which he may lawfully part with, ſaving his or her neceſſary apparel and utenſils of trade, ſhall be veſted in the ſheriffs of the counties wherein the eſtate ſhall lie or be found, to whom the clerk of the court where the ſchedule is directed to remain, ſhall tranſmit copies thereof, and ſuch ſheriffs, reſpectively, ſhall ſell and convey the eſtate in their counties to the perſon or perſons who ſhall purchaſe, at public ſale, upon due notice given, return accounts of ſales to the clerk's office, and pay the money, deducting five per centum for their commiſſions, by order of the court, to the creditors in proportion to their debts.

SECT. XXVII. IF the ſchedule ſhall contain debts due in money or tobacco to the priſoner, or articles of eſtate to him belonging, and which are in the poſſeſſion of any other perſon or perſons, in ſuch caſe the clerk of the court where the ſchedule is delivered in, ſhall immediately iſſue a ſummons againſt each debtor and perſon having ſuch effects, named in the ſchedule, reciting the amount of the debt, or the ſpecies of goods, and requiring him to appear at the next court to declare on oath, whether the debt, or any, and what part thereof be really due to the priſoner, or what goods and effects of the priſoner he hath. And if any perſon ſo ſummoned as a garniſhee, ſhall fail to appear, the court ſhall enter judgment againſt him for the debt, goods or effects mentioned in the ſchedule, and coſts, a lawyer's fee excepted.

SECT. XXVIII. BUT this judgment ſhall be ſet aſide at the next court, if he ſhall then appear and conteſt the demand in which caſe an iſſue ſhall be made up between the parties, to be tried by the jury.

SECT. XXIX AND if any ſuch garniſhee ſhall appear and be ſworn, or affirm, being a quaker or menoniſt, judgment ſhall be entered for what money or tobacco is acknowledged to be due, or for what goods or effects is acknowledged to be in his or her poſſeſſion, belonging to the priſoner, and coſts as aforeſaid, which judgments ſhall be entered in the name of the ſheriff, who ſhall thereupon proceed to collect or levy the money, and to ſell the tobacco and goods for money, returning an account thereof and paying the money as before mentioned, on the ſales of the priſoner's eſtate; for which he ſhall be allowed over and above his fees, ſuch expences as the court ſhall judge reaſonable, including ſuch fee to a lawyer on the proceeding againſt the garniſhees, as the nature of the caſe will make juſt, and if the effects in his hands are not ſufficient to reimburſe ſuch expences, he ſhall be paid the balance by the creditor or creditors in proportion to their debts.

SECT. XXX. WHERE a garniſhee does not acknowledge the whole debt or goods mentioned in the ſchedule, the ſheriff or priſoner ſhall be at liberty, at any time after, within the times preſcribed by the act for limitation of actions and ſuits, to claim the reſidue by legal proceſs, and the former judgment ſhall only be a bar for ſo much as the garniſhee was ordered to pay or deliver.

SECT. XXXI. WHERE any debtor committed in execution, ſhall diſcharge himſelf by taking the oath or affirmation herein before directed to be taken by inſolvent debtors, the ſheriff ſhall not be allowed any other fees for ſerving the execution, than are or ſhall be allowed by law for committment and releaſement, the maintenance of the debtor, and for ſelling the effects, and collecting the debts contained in the ſchedule delivered in by ſuch priſoner of his eſtate.

SECT. XXXII. IN all executions upon judgments for penalties of bonds, or other writings, the commiſſions of the ſheriff or officer for ſerving the ſame ſhall be charged only upon the principal ſum, by the payment of which the execution is to be diſcharged.

SECT. XXXIII. IN writs of execution in detinue, the commiſſions ſhall be allowed upon the value of the goods recovered, and on the damages and coſts, and in the writ to have a return of the goods in replevin, the commiſſions ſhall be on the amount of the rent avowed for, damages and coſts.

CHAP. CXXIV.

A BILL *concerning rents and diſtreſſes.*

SECTION I. BE it enacted by the General Aſſembly, that any perſon to whom rent is or ſhall be due upon a leaſe for life, may bring an action of debt for ſuch rent in like manner as he might have done if the rent had been reſerved or become due upon a leaſe for years. A landlord, by action on the caſe, may recover a reaſonable ſatisfaction for the uſe and occupation of tenements held and enjoyed by another, although there be no agreement by deed between the parties; and if, on the trial of ſuch action, any parol demiſe, or any agreement, not being by deed, whereby a certain rent was reſerved, ſhall appear, the plaintiff ſhall not be therefore nonſuited, but may make uſe thereof, as evidence of the quantity of damage to be recovered. Where a landlord, having only an eſtate for life in tenements demiſed to another, ſhall die before or on the day whereon the rent is reſerved payable, the executors, adminiſtrators or aſſigns of ſuch landlord may, by an action on the caſe, recover from the under-tenant the whole of the rent, if the death happened on the day it was payable, or, if the death happen before that day, ſuch a part of the rent as is proportionable to the time the landlord lived of the next preceeding year, or other period in which the rent was growing due. Goods, which lying or being upon tenements demiſed ſhall have been taken in execution, unleſs it be for a debt due to the commonwealth, ſhall not be removed from thence, before the party, at whoſe ſuit the execution was ſued out, ſhall pay or tender to the landlord, or to his agent, ſuch ſum of money, or quantity of tobacco, or other thing reſerved, as at the time of the taking is or ſhall be due for the rent of the demiſed premiſes, ſo that it exceed not the rent of one year; and if the landlord or agent accept ſuch year's rent, or ſo much thereof as is due, the officer to whom the execution was directed ſhall proceed to levy and pay to the perſon who ſued it out, not only the money or other thing thereby due, but alſo the rent ſo advanced. If a leſſee for life, term of years, at will, or otherwiſe, fraudulently convey away his goods from the tenements to him demiſed, in order to prevent a diſtreſs for arrears of rent, the landlord to whom ſuch rent is due, or any perſon by him for that purpoſe, lawfully empowered, may, within the ſpace of thirty days after the conveying away, ſeize ſuch goods, whereſoever they may be found, unleſs they ſhall before have been ſold, with good faith, and for valuable conſideration, to one who was not privy to the fraud, as a diſtreſs for the ſaid arrears of rent, in the ſame manner as he might have done, if they had remained upon the demiſed premiſes, and upon the teſtimony of the landlord, or his agent, before a Juſtice of the Peace, that there is good cauſe to ſuſpect the goods ſo fraudulently conveyed away to be depoſited in any houſe, yard, or other incloſure, ſuch Juſtice, at the requeſt of the landlord, or his agent, ſhall and may, by his warrant, authoriſe ſuch landlord or agent, in company with the ſheriff, or under ſheriff, or a conſtable, who ſhall attend and aſſiſt to break and enter ſuch houſe, yard, or incloſure, in the day time, if the owner or perſon dwelling there will not permit them to enter without force, in order to ſearch for and ſeize the goods. Thoſe things which by the common-law were not diſtrainable, either becauſe they could not be rendered again in like plight, or becauſe they were the tools or inſtruments of the owner's trade or occupation, may hereafter be diſtrained for rent arrere, and ſold in the ſame manner as other goods, but ſhall be kept, as impounded in the place where they ſhall be found, if they cannot be removed without damage to the owner, until they ſhall be replevied or ſold; and all ſorts of emblements and annual fruits growing upon land demiſed, may be ſeized as diſtreſs for arrears of rent, and when ripe, be cut, gathered, cured, and laid up in barns or proper depoſitaries on the ſame land, or, if none be there, in ſuch others as can be procured neareſt thereto by the landlord, or his agent, who ſhall give notice thereof, within the ſpace of one week after the ſeizure, to the tenant, or leave ſuch notice, in writing, at the laſt place of his abode, and in convenient time the things ſo ſeized ſhall be ſold and diſpoſed of in the ſame manner as other goods diſtrained for rent arrere, unleſs the tenant, or his executors, adminiſtrators or aſſigns, before pay to the leſſor or landlord, or his agent, the whole rent arrere, together with the charges occaſioned by the ſeizure. Any perſon may impound, or otherwiſe ſecure a diſtreſs, lawfully taken for rent arrere, of whatſoever nature or kind it be, in ſuch place, on the premiſes, chargeable with the rent, as ſhall be moſt fit and convenient for the purpoſe, and may come and go to and from the place, in order to view the diſtreſs, and to ſell it and remove it after it ſhall be ſold. A landlord, to whom rent is or ſhall be due upon a leaſe determined, may diſtrain for ſuch rent, in the ſame manner after as he might have done before, ſo that ſuch diſtreſs be made within the ſpace of ſix months after the determination of the term, and during the continuance of ſuch landlord's title or intereſt, and the poſſeſſion of the tenant from whom the arrears became due. None ſhall take unreaſonable diſtreſs, or diſtrain ſlaves where other ſufficient diſtreſs can be had; and if any offend herein, the party grieved may, in an action on the caſe, recover damages againſt the wrong doer, with coſt of ſuit. A diſtreſs ſhall not be driven or carried out of the county where it ſhall have been taken. Upon any pound, breach or reſcous of goods diſtrained or ſeized as a diſtreſs for rent arrere, the perſon grieved thereby may, in a ſpecial action on the caſe for the wrong ſuſtained, recover treble damages and coſts of ſuit againſt the offender, or againſt the owner of the goods, if they be found to have come to his poſſeſſion or uſe. The owner of goods diſtrained and ſold, by virtue or colour of this act, or his executors or adminiſtrators, if in truth no rent is in arrere or due, may, by an action of treſpaſs, or on the caſe, to be brought againſt the perſon diſtraining, whether in the right or name of himſelf, or of another, or his executors, or adminiſtrators, recover double of the value of ſuch goods, together with full coſts of ſuit. Where goods ſhall be diſtrained for arrears of rent reſerved and due, if the tenant or owner of the goods ſhall, within ten days after the diſtreſs taken, and notice thereof, with the cauſe of ſuch taking, left at the chief manſion houſe, or other moſt notorious place on the premiſes chargeable with the rent diſtrained for, replevy the ſame, by giving bond, with ſufficient ſurety, to the ſheriff, in the penalty of double the value of the rent demanded, conditioned for proſecuting the ſuit, with effect, and without delay, and for duly returning the goods diſtrained, in caſe a return ſhall be awarded, the ſheriff ſhall cauſe the diſtreſs to be dilivered to the tenant or owner, and ſhall aſſign the bond to the

leſſor or landlord, who may commence an action thereupon in his own name, if the condition be broken, and the perſon diſtraining, if he will not ſuffer the diſtreſs to be delivered by the ſheriff to the tenant or owner, ſhall be amerced; and the tenant or owner in an action of treſpaſs, againſt the perſon diſtraining, may alſo recover damages; but if the tenant or owner ſhall not replevy the goods ſo diſtrained, within the time and in the manner before mentioned, the landlord ſhall deliver them to the ſheriff, after expiration of the ſaid ten days, who ſhall take the ſaid goods, and ſuffer them to be replevied, or ſell them in the ſame manner as if they had been taken by virtue of a writ of fieri facias, applying the produce, in caſe of a ſale, towards ſatisfaction of the rent demanded, and the expences of the diſtreſs and ſale, and returning the overplus, if any, to the tenant or owner; and the landlord ſhall have like remedy againſt the ſheriff for non-payment of the money or tobacco levied, or againſt the tenant and ſureties, who ſhall have given bond, for producing the goods at the time appointed for ſale thereof, or for payment of the rent, intereſt, and coſts, or of the price the goods ſold for, as in caſe of goods taken by virtue of ſuch writ of fieri facias. If any tenant, who ſhall be in arrere one year's rent, ſhall deſert the demiſed premiſes, and leave the ſame uncultivated or unoccupied, ſo as no ſufficient diſtreſs can be had to countervail the arrears of rent, two or more Juſtices of the Peace, at the requeſt of the landlord, or of his bailiff, or receiver, may go upon and view the demiſed premiſes, and affix, in the moſt notorious part thereof, notice in writing on what day they will return to take a ſecond view, which ſhall be at the diſtance of not leſs than fourteen days, and if upon ſuch ſecond view, the tenant, or ſome perſon on his behalf, ſhall not appear and pay the rent in arrere, or there ſhall not be ſufficient diſtreſs on the premiſes, then the ſaid Juſtices may put the landlord into poſſeſſion of the demiſed premiſes; and the leaſe thereof, as to any demiſe therein contained only, ſhall from thenceforth become void; but thoſe proceedings of the Juſtices ſhall be examinable in a ſummary way by the next county court, who are empowered to order reſtitution to be made to the tenant, together with his expences and coſts, to be paid by the landlord if they ſhall ſee cauſe for the ſame; or, in caſe they ſhall affirm the act of the Juſtices, to award coſts, not exceeding five pounds, for the frivolous appeal. The defendant in replevin may avow, or make conuſance generally, that the plaintiff in replevin or other tenant of the tenements whereon the diſtreſs was made enjoyed the ſame under a demiſe or grant, at ſuch a certain rent, during the time wherein the rent diſtrained for incurred, which rent then was and ſtill remains due, without further ſetting forth the grant, demiſe, or title of the landlord. Any tenant, whoſe eſtate is determinable upon a life, tenant for years, or at will, guardian or truſtee for an infant, or huſband ſeized in right of his wife, or other perſon claiming under them, who ſhall hold poſſeſſion after the determination of his intereſt, without expreſs conſent of the perſon then immediately intitled, ſhall be deemed a treſpaſſer. No perſon ſhall diſtrain beaſts doing damage upon his land, unleſs the land be encloſed with a rail fence, five feet high, or with a bank and rail fence, or hedge, the top whereof is eight feet from the bottom of the ditch, the fence or hedge being ſo cloſe that the beaſts could not paſs through or under it. When beaſts doing damage ſhall be diſtrained, and put into a pound overt, the diſtrainer ſhall give reaſonable notice thereof to the owner, or his agent, or overſeer, or leave ſuch notice in writing at the place of his uſual abode, if that be diſtant not more than twelve miles from the pound, but if the diſtance be greater, or if the owner be not known to the diſtrainer, the beaſts ſhall be deemed eſtrays.

CHAP. CXXV.

A BILL *providing remedy and puniſhment in caſes of forcible entries and detainers.*

SECTION I. BE it enacted by the General Aſſembly, that none make any entry into any lands and tenements, or other poſſeſſions, whatſoeve but in caſe where entry is given by the law; and in ſuch caſe not with ſtrong hand, nor with multitude of people, but only in peaceable and eaſy manner; and that none who ſhall have entered into the ſame in peaceable manner hold the ſame after with force. And if any do to the contrary, on complaint thereof to any Juſtices or Juſtice of Peace, ſuch Juſtices or Juſtice, ſhall take ſufficient power of the county, and go to the place where ſuch force is made; and if they find any that hold ſuch place forcibly they ſhall be taken and put in the jail of the ſame county, there to abide conviction by the record of the ſame Juſtices or Juſtice, until they have paid ſuch amercement as ſhall be aſſeſſed by a jury to be ſworn by the Juſtices or Juſtice for that purpoſe. And all the people of the county, as well the ſheriff as others, ſhall be attendant upon the ſame Juſtices, to go and aſſiſt them to arreſt ſuch offenders, upon pain of impriſonment and amercement at the diſcretion of a jury.

SECT. II. AND moreover though that ſuch perſons making ſuch entries be preſent, or elſe departed before the coming of the ſaid Juſtices or Juſtice, notwithſtanding the ſaid Juſtices or Juſtice in ſome convenient place, according to their diſcretion, ſhall have authority and power to enquire by the people, of the ſame county, as well of them that make ſuch forcible entries in lands and tenements, as of them which the ſame hold with force; and if it be found before any of them that any doth contrary to this act, then the ſaid Juſtices or Juſtice ſhall cauſe to reſeize, or to repoſſeſs, the lands and tenements ſo entered or holden as afore, and ſhall put the party ſo put out in full poſſeſſion thereof.

SECT. III. AND alſo when the ſaid Juſtice or Juſtices make ſuch enquiries as before, he or they ſhall make their warrants and precepts, to be directed to the ſheriff of the ſame county, commanding him on behalf of the commonwealth, to cauſe to come before him or them fit perſons to enquire of ſuch entries. And if any ſheriff be ſlack, and make not execution duly of the ſaid precepts to him directed, to make ſuch enquires, he ſhall forfeit twenty five pounds, recoverable before any Court of Record, as well by indictment or information, to be taken only for the commonwealth, as by bill at the ſuit of the party grieved, as well for himſelf as for the commonwealth, in which caſe one moiety of the ſaid twenty-five pounds, ſhall be to the commonwealth, and the other moiety, together with his coſts and expences ſhall be to the party ſuing.

SECT. IV. AND moreover, Mayors and bailiffs of cities and boroughs, ſhall have in the ſaid cities and boroughs like power to remove ſuch entries, and in other articles aforeſaid ruling within the ſame, as the Juſtices of Peace and ſheriffs in counties have.

SECT. V. BUT no reſtitution upon any indictment of forcible entry, or holding with force, ſhall be made to any, if the party indicted hath had the occupation, or hath been in quiet poſſeſſion by the ſpace of three whole years together, next before the day of ſuch indictment ſo found, and his eſtate therein not ended or determined; which the party indicted may alledge for ſtay of reſtitution, and reſtitution to ſtay until that be tried, if the other will deny or traverſe the ſame; and if the ſame allegation be tried againſt the party ſo indicted, then the ſame party ſo indicted to pay ſuch coſts and damages, to the other party, as ſhall be aſſeſſed by the Judges or Juſtices before whom the ſame ſhall be tried.

CHAP. CXXVI.

A BILL *for repealing certain Acts of Parliament and of General Aſſembly.*

SECTION 1. BE it enacted by the General Aſſembly, that all acts of the Parliament of England, made before the fourth year of the reign of King James, the firſt of England, except ſuch of them as ſhall be by this General Aſſembly enacted, in expreſs words, to be in force. ſhall be, and are repealed, ſo far as they concern any perſons or things in, or belonging to this commonwealth. And it is declared, that every act, either of the ſaid Parliament of England, made in or after the ſaid fourth year of the reign of the ſaid King James, or of the Parliament of Great-Britain, made ſince the union of the two kingdoms of England and Scotland, ſo far as any ſuch act concerned or was intended to concern any perſons or things in or belonging to this commonwealth, was and is void, and never had any force, further than ſuch act ſhall have been particularly enacted or allowed by ſome act of General Aſſembly to be in force. But no judgment of any court of law, decree of any Court of Equity, or ſentence of any Court of Admiralty, founded upon any ſuch act of Parliament, whereof execution hath actually been done, ſhall be reverſed, or deemed null, unleſs it be for ſome other cauſe than the nullity of the ſaid act. And it is further enacted, that all acts of General Aſſembly, and ordinances of Convention, made before the day of in this preſent year of our Lord one thouſand ſeven hundred and ſhall be and are repealed, except every ſuch act whereby troops have been raiſed, and proviſion made for clothing, arming, and ſubſiſting them, and relieving their families; or whereby manufactories on account of the commonwealth have been eſtabliſhed or encouraged; or whereby taxes or duties now ſubſiſting have been impoſed, or whereby the public Treaſurer was empowered to borrow money or iſſue treaſury notes, or any perſon was empowered to ſuperintend the loan office of the United American States, or whereby the defective titles of particular perſons had been eſtabliſhed, and except every ſuch act as confirms and ſecures the titles to lands in the Northern Neck, held under the proprietor; or as concerns or relates to the lands of, or claimed from Indians; or as concerns or relates to a particular county, pariſh, town, or corporation, or private perſons, only, or ſo much of ſuch act as is not repealed by ſome other act; and except alſo the two ordinances paſſed at a General Convention of Delegates and repreſentatives from the ſeveral counties and corporations of Virginia, held at the capitol, in the city of Williamſburg, on Monday, the ſixth day of May, in the year of our Lord one thouſand ſeven hundred and ſeventy ſix, whereof one is intitled "A declaration of rights made by the repreſentatives of the good people of Virginia, aſſembled in full and free convention, which rights do pertain to them, and their poſterity, as the baſis and foundation of government," and the other is intitled "The conſtitution or form of government agreed to and reſolved upon by the Delegates and repreſentatives of the ſeveral counties and corporations of Virginia."